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**VOLUME 2, ADMINISTRATIVE AND ASSESSMENT PROCEDURES**

**CONTENTS CHECK LIST**

The following lists each chapter, the order in which they should appear in your manual, and the revision date. ARL Volume 2 was reformatted in January 2006; as part of this revision, Chapters 13 and 14 were moved from **Volume 3, LAND VALUATION MANUAL**. If pages are missing from your **ARL VOLUME 2, ADMINISTRATIVE AND ASSESSMENT PROCEDURES MANUAL,** contact the Division.

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## CHAPTER 1 ASSESSOR'S DUTIES AND RELATIONSHIPS

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## CHAPTER 13 LAND IDENTIFICATION AND REAL PROPERTY DESCRIPTIONS.

## CHAPTER 14 ASSESSMENT MAPPING AND PARCEL IDENTIFICATION

6. Make a notation of the current equity value on the appraisal record and update the value in the computer system. The full value of the land should also be shown on the appraisal record.

7. It is helpful to attach a computer flag to these accounts so they can be pulled directly from the computer system.

## FLAGS – COMPUTER AND MANUAL

Many tasks require follow-up and/or tracking by the administrative and appraisal sections of the assessor's office. These tasks can be made easier by a computer flagging system or the development of a manual system. The following list shows the various tasks that require follow up:

| TASK | TRACKING NEEDED |
|---|---|
| Annexation ordinance and Disconnection ordinance | -Tax area changes for subsequent year<br>-Certification of value: track value of property within annexed area |
| Inclusion order and Exclusion order | -Certification of value: track value of property within included/excluded area |
| Manufactured homes | -Intra-county move: tax area change<br>-Home leaves state: removal of prorated value<br>-Home moves into state: raise to full value in the following year |
| Destroyed property | -Removal of prorated value<br>-Abstract of Assessment<br>-Certification of value |
| Tax status changes | -Loss or granting of exempt status for a partial year: removal of prorated value and raise to full taxable value<br>-Raise to full value in the following year |
| Severed minerals | -Mineral interest severed during year<br>-Removal of interest with time reservation<br>-Mineral interest severed with time reservation<br>-Mineral interest under production |
| Classification changes | -New subdivisions<br>-New construction<br>-Demolition<br>-Land use change |
| Partially complete structures | -Review structure for completion<br>-Adjust value or raise to full value if completed subsequent year |

| | |
|---|---|
| Personal property | -Property entering the state during an assessment year to ensure it is added to assessment roll the year following the year it is put into use, property leaving, flag to remove next year |
| Real Property Transfer Declaration | -Non-filing/incomplete filing: Penalty |
| Rotary drill rigs | -Ensure apportionment is received |
| Sand and gravel | -Verify for production |
| Personal property | -Best information available accounts<br>-Accounts requiring audit<br>-Out of business after assessment date |
| Vacant land present worth | -Verify for qualification |
| Senior citizen exemption | -Qualification of owner |

## FORMATION OF A NEW SPECIAL DISTRICT

Title 32 special districts are formed under the provisions of Title 32 of the Colorado Revised Statutes. Examples of Title 32 districts include: ambulance, fire protection, health service, metropolitan, park and recreation, water and sanitation. Different statutes govern other types of districts. The Division of Local Government publishes "FORMATION AND STATUTORY RESPONSIBILITIES" which delineates the necessary steps in the Title 32 district formation process. It can be found on their website at: http://www.dola.state.co.us/LGS/TA/SD-administration.htm.

### THE ASSESSOR'S ROLE IN FORMATION OF A TITLE 32 DISTRICT

1. The organizers of a special district file a service plan with the board of county commissioners. The board of county commissioners sets a date for a public hearing on the plan. The organizers notify all real and personal property owners in the proposed district of the hearing not more than 30 days prior but not less than 20 days prior to the hearing, giving the date, time, location, type of district and purpose of the hearing. The organizers will request a real and personal property ownership list with mailing addresses from the assessor. The map and legal description of the proposed new district should be given to the assessor as soon as possible, so the assessor has ample time to identify the properties in the district.

   If the proposed district is contained entirely within the boundaries of a municipality or municipalities, a resolution of approval by the governing body of each municipality is required. All approval authority for the organization of the district rests with the governing bodies of the municipalities in which the district is located rather than with the board of county commissioners.

2. After approval of the service plan by the board of county commissioners, the petitioners file a petition for organization of the proposed district in district court.

3. When any petition for organization of a special district is filed, the clerk of any court or board or any other officer with whom the petition is filed, sends written notification of the organization to the assessor, the board of county commissioners, and the Division of Local Government. The notice specifies the boundaries of the proposed political subdivision.

4. If the petition for organization is found to have conformed to all legal requirements, the court orders an election held on the question of organization of the proposed district.

5. The county assessor furnishes a certified list of all owners of taxable real and personal property to the special district no later than 30 days before the election. A supplemental list is provided no later than 20 days prior to the election and should contain the names of persons who became property owners after the initial list was generated. The assessor may charge the special district for the expense of generating the list. The fee for furnishing the lists is $25 for both lists (real and personal) or one cent per name, whichever is greater.

6. If the voters approve the organization of the district, the court declares the district organized. Within 30 days of the organization, the special district files a map of the district with the county assessor.

## AUTHORITY TO TAX

A political subdivision cannot levy a tax for the calendar year in which it has been organized unless, prior to July 1, the assessor and the board of county commissioners have been notified of its organization and have received an official notice that a tax will be levied for such year, § 39-1-110(1), C.R.S.

## MAINTAINING CURRENT RECORDS

On or before January 1 of each year, a current, accurate boundary map should be filed with the assessor and the Division of Local Government by each special district, § 32-1-306, C.R.S.

On or before January 15 of each year, special districts notify the assessor, the board of county commissioners, and others, the name of the chairman of the board, the contact person, the telephone number, and the business address of the special district, § 32-1-104(2), C.R.S.

## PROCESSING A NEW SPECIAL DISTRICT

1. Verify that the necessary documents were filed according to the statutory requirements and guidelines. A file for each special district should be created in which all of the necessary documents for the district formation are kept. These documents include:
    a. Copy of the approved service plan
    b. Map of the district
    c. Legal description of the district

2. Based on the newly formed special district boundaries shown on the map and the boundary legal description, locate the properties that are included in the new district.

3. Identify the real and personal property included in the district boundaries. List the parcel numbers, schedule numbers, or account numbers that are affected.
    a. Real property includes: all lands or interests in lands; all mines, quarries, and minerals in and under the land, § 39-1-102(14), C.R.S.
    b. Personal property includes: machinery, equipment, and other articles related to a commercial or industrial operation, § 39-1-102(11), C.R.S

4. Identify the current tax area(s) in which the properties lie and determine if a tax area change is required.

    Include the new special district in the identified current tax area(s) that are wholly included in the boundaries of the new special district.

    It may be necessary to create new tax areas when:
    a. The boundary for the new special district does not follow existing tax area boundaries or if specific properties within the special district boundaries have been excluded from the special district.
    b. A special district is not authorized to levy against certain property, such as a weed control district cannot levy against personal property.

5. Change the tax area on property records affected by the creation of the new special district.
    a. Appraisal records
    b. Computer records (real and personal property)
    The tax area assigned to the surface is also assigned to the personal property, severed mineral interests, oil and gas leaseholds, possessory interests, and natural resource production such as coal, that may be located on or are coterminous with the surface. Some special districts cannot levy against the personal property whose situs is within their boundaries. To protect against an illegal assessment, check the special district requirements.
        i. Real property includes: all lands or interests in lands; all mines, quarries, and minerals in and under the land. § 39-1-102(14), C.R.S.
        ii. Personal property includes: machinery, equipment, and other articles related to a commercial or industrial operation. § 39-1-102(11), C.R.S.
    c. Parcel identification records

6. If it was necessary to create new tax areas, maps of the new tax areas should be sent to all necessary state assessed companies where their apportionment of value will be affected by the new district creation.

7. The assessor's database should now recognize the properties within the district and be capable of producing a summary of the values for certification purposes for the new district. A test certification report should be run to verify that all of the properties within the district are accurately identified.

## IMPROVEMENTS ON EXEMPT PROPERTY

Some improvements located on exempt land, such as forest service land or public airport authority land, are privately owned and may be taxable. The land is leased from the exempt entity with permission from the lessor to build an improvement. Assessors should maintain current copies of all leases in order to determine the taxable or exempt status of the improvement. Check the requirements for potential possessory interest valuations, detailed in **ARL Volume 3, LAND VALUATION MANUAL, Chapter 7, Special Issues in Land Valuation**.

## PARTIALLY COMPLETED IMPROVEMENTS

### CONSTRUCTION IN PROCESS

Incomplete improvements, including foundations, are assessed according to their status as of the assessment date; and are to be classified according to their intended use when completed. In the case of foundations, if, after a period of time determined by the appraiser, no further construction progress is made, it may be necessary to reclassify the property as vacant land.

The improvement value for residential property is determined by the market approach to value as described in **ARL Volume 3, LAND VALUATION MANUAL**. The improvement value for nonresidential property is determined by the cost, market, and income approaches. The market and income approaches can be used by comparing the market value or income of an existing structure or business to the new structure. If the value of the improvement when completed is determined and the percent complete as of the assessment date is estimated. This is used to determine the proportional value. Properties that are not complete on the assessment date must be physically reviewed annually until completed.

### GROWTH VALUATION FOR ASSESSMENT

Qualifying counties severely impacted by residential growth may opt to assess new construction that occurs between January 1 and July 1, § 39-5-132, C.R.S. If the county commissioners make a finding of severe growth impact as provided in § 39-5-132, C.R.S., the assessor values new construction on both January 1 and July 1. The prorated value of the construction completed between January 1 and July 1 is added to the assessment roll. If the building is complete on July 1, the value of the construction that occurred between January 1 and July 1 is prorated according to the number of months of the year the building was complete. If the building is not complete on July 1, the value added shall be one-half the difference between the assessed value of the building on January 1 and the assessed value on July 1, § 39-5-132(2)(a)(I)(B), C.R.S. The classification of the land is based in its status on the January 1 assessment date that is generally vacant land, unless the newly constructed building is a residential unit. If the newly constructed building is a residential unit and if the land was classified as vacant, the land is reclassified as residential and the assessment rate applied to the land is based on the residential classification, § 39-5-132(2)(c), C.R.S. **ARL Volume 3, LAND VALUATION MANUAL, Chapter 4, Valuation of Vacant Land Present Worth,** provides procedures for present worth valuation. In the procedures, it directs that the present worth value is applied only to vacant land. Once a building is on the land, present worth valuation does not apply; thus, the Division suggests the present worth valuation be removed when the land classification is changed to residential due to the installation of a residential improvement.

Taxpayers must be mailed a notice of actual valuation that provides the January 1 value, the prorated valuation of the building, and the total valuation for the entire year. Protest will occur the following May at which time the owner can address both valuations, § 39-5-132(2)(a)(I)(C), C.R.S.

A special report must be filed with the county commissioners by August 25 of each year showing the amount of growth for that year, § 39-5-132(3), C.R.S.

# MANUFACTURED HOMES

## MANUFACTURED HOME MOVEMENT

### Existing Homes

The owner of a manufactured home has the responsibility of notifying both the county assessor and the county treasurer before moving the manufactured home. "Owner" means the owner at the time of the change of location, §§ 38-29-143(1), 39-5-204(1)(a), and 39-5-205, C.R.S.

The assessed value of a manufactured home is prorated whenever the manufactured home moves out of or into the state or if the manufactured home becomes the property (inventory) of a dealership if it is located on the dealer's sales display lot.

The assessor does not prorate the value if the move is intra-county (within the county) or if the home moves to another Colorado county. If the home is moved to another county, upon notification to the treasurer, the taxes become due and payable to the county where the home was located on January 1, § 39-5-205(3)(a), C.R.S.

Upon receiving notification of a home that leaves the state, the assessor prorates the value of the manufactured home for the time, in full months, it was in the county. If the home was in the county on the 16th day or later before being moved, a full month is counted. If it leaves the state before the 16th, that month is disregarded, § 39-5-205(3)(b), C.R.S. The taxes must be paid prior to the home moving out of the county.

An authentication form is completed when the ownership of a manufactured home changes or when a manufactured home will be moved, either out of the county or within the county. The form shows information such as the current location, future location, value proration, and taxes due, if any. The value proration is shown on the authentication form when manufactured homes move out of the county. When a manufactured home move is intra-county, the "no proration necessary" box on the authentication form is checked. The taxes become due and payable the following January 1 for intra-county moves.

When a manufactured home is brought into a county after the assessment date, the manufactured home owner must notify the county assessor and the county treasurer, within 20 days, of the location of the manufactured home and the mailing address of the owner. The county assessor must determine the market value of the manufactured home and prorate such value for the amount of time, in full months, remaining in the year, if the home is brought in from out of state. If the manufactured home is brought into the state on or after the 16th of the month, that month is disregarded, §§ 38-29-143(1) and 39-5-204(1)(c)(II), C.R.S. If the home is moved from another Colorado county, the home is not assessed until the following January 1 because the home was taxed by the previous county for the full year, § 39-5-205(3)(a), C.R.S.

Refer to **Chapter 4, Assessment Math**, for proration calculation rules and examples. The prorated value must remain on the assessment roll and is not removed until the tax warrant has been produced.

If the current year's mill levy has not been set, the prior year's mill levy should be used in calculating the amount of tax due. When the mill levy for the current year has been set, the prorated taxes on manufactured homes that have moved out of the state are recalculated by the treasurer. The treasurer refunds overpayment of taxes after the tax warrant has been produced. Underpayment of taxes is considered an erroneous assessment by the treasurer and reported with other erroneous assessments as required by law, and are usually handled by the treasurer through abatement petitions, §§ 39-5-205, 39-10-114(1)(a)(I)(A), and 39-11-107, C.R.S.

When a manufactured home is moved from the state, the county treasurer collects the taxes based on the prorated value for the year. The amount of tax paid is shown on the authentication form. Refer to **Addendum 3-B, Manufactured Home Authentication Form**, for a sample of the form, § 42-4-510(2)(a), C.R.S.

## New Homes

When a new manufactured home is sold to a consumer, there are no property taxes immediately due and payable on such home. It was part of the inventory of a dealer or manufacturer, and inventories held primarily for sale are exempt from property taxation. Therefore, neither an authentication of paid ad valorem taxes nor a transportable manufactured home permit from the county treasurer is required to move a new manufactured home. Because of this, assessors may not receive notice of every new manufactured home that moved into their counties, § 42-4-510(2)(a), C.R.S.

Many manufactured home dealers have their own vehicles for moving the homes they sell. Such dealers usually apply for an annual moving permit. This means there are no single trip permits that provide a record of individual moves. If neither the dealer nor the purchaser of a new home notifies the assessor of the move, the home may not be valued for the assessment year in which it sold. To prevent this from happening, assessors may inspect the records of moving permit holders. Section 42-4-510(2)(b)(II), C.R.S., states the following.

> **Permits for excess size and weight and for manufactured homes.**
> (2)(b)(II) Holders of permits shall keep and maintain, for not less than three calendar years, records of all manufactured homes moved in whole or in part within this state, which records shall include the plate number of the towing vehicle; the year, make, serial number, and size of the unit moved, together with the date of the move; the place of pickup; and the exact address of the final destination and the county of final destination and the name and address of the landowner of the final destination. These records shall be available upon request within this state for inspection by the state of Colorado or any of its ad valorem taxing governmental subdivisions.
>
> **§ 42-4-510, C.R.S.**

### Required Permits

The treasurer issues a transportable manufactured home permit for every manufactured home that is moved. The transportable manufactured home permit is valid for 30 days and for a single trip. The treasurer may charge up to $10 for the permit. The permit is six by eleven inches, printed on a fluorescent orange card, and must be visible during the move, § 42-4-510(2)(a), C.R.S.

If the move is within a county or to an adjoining county on county roads, the authentication form serves as the moving permit.

If the move is on state highways, the owner or mover must obtain an excess size transport permit from the Colorado Department of Transportation (CDOT). This permit must be affixed to the manufactured home. Before CDOT will issue the permit, the owner must have an authentication form and a transportable manufactured home permit issued by the treasurer, § 42-4-510(2)(b), C.R.S. Movers of manufactured homes may apply for a single trip, special, or an annual permit.

### Penalties

If the owner fails to notify the county assessor and treasurer of the location change of a manufactured home, the owner is guilty of a misdemeanor traffic offense and, upon conviction, shall be punished by a fine of not less than $100 nor more than $1,000, § 38-29-143(2), C.R.S.

The fine for the movement of a manufactured home without a permit or a prorated tax receipt and a transportable manufactured home permit is $200, § 42-4-510(12)(b), C.R.S.

The district attorney shall investigate and prosecute any allegations that a manufactured home has been moved without a valid permit. The allegations may be made by any law enforcement official or any employee of a county assessor's or treasurer's office, § 42-4-510(10), C.R.S.

## HELD AS INVENTORY

Manufactured homes located on sales display lots of manufactured home dealers and listed as inventory of merchandise by such dealers are exempt from property taxation, § 39-5-203(3)(a), C.R.S. Manufactured homes taken in trade or purchased by dealers and which remain on locations other than the dealer's sales display lot are taxable. New or used manufactured homes owned by the dealer, which are situated on locations other than the dealer’s sales display lot are taxable. The value is prorated by the day, based on the date the home changed taxable status.

A Special Notice of Valuation should be sent to a taxpayer when a manufactured home loses exempt status because it is moved out of dealer inventory or off the sales display lot.

## SALE OF NEW OR USED

The seller is responsible for making sure that all property taxes have been paid on the manufactured home. When an application for a certificate of title is submitted to the Colorado Department of Revenue by the new owner, it shall be accompanied by an authentication form of paid ad valorem taxes issued by the county treasurer. The authentication form indicates that no property taxes for previous years are due on the

manufactured home. The seller of a titled manufactured home must provide the buyer with a certificate of title to facilitate the transfer of the title. The seller must also provide a listing of the household furnishings included in the sale price, §§ 38-29-106, and 107, C.R.S.

The buyer must apply for a new title from the authorized agent of the county (county clerk or motor vehicle division) within 45 days of the sale of a new manufactured home or within 30 days of the sale of a used home. The authentication form is given to the clerk along with the application for title. The application must be filed in the county where the manufactured home is located, and must show the applicant's source of title and the new or resale price of the manufactured home. It is the responsibility of the buyer to notify the county assessor where the manufactured home will be located, the new address, and transfer of ownership, §§ 38-29-108(1) and 112(1), C.R.S.

Upon the sale or transfer to a dealer of a manufactured home for which a title has been issued, the dealer is not required to transfer the title of the manufactured home into the dealer's name as long as the home remains in the dealer's inventory for sale and for no other purpose, § 38-29-115, C.R.S.

## PERMANENTLY AFFIXED TO THE GROUND

The owner of a manufactured home that becomes permanently affixed at an existing site, or is transported to a site, and is permanently affixed to the ground so that it is no longer capable of being drawn over the public highways, may present a certificate of transfer together with an application to purge the title from the records. The manufactured home then legally becomes real property, § 38-29-112(1.5), C.R.S. This means, among other things, that the classification of the manufactured home will change, future transfers of the property will be by deed, and that if property taxes are not paid, a treasurer's deed cannot be issued for at least three years from the date of the sale of the tax lien certificate, § 38-29-112(1.5), C.R.S.

To purge the title, the manufactured home must be permanently affixed to the ground. The owner shall present a certificate of title, together with an application for purging a manufactured home title, to the authorized agent of the county in which the home is located. The application must be accompanied by a consent statement of the holders of any mortgages, if the home is financed. The authorized agent of the county forwards the documents to the state Division of Motor Vehicle, which purges the manufactured home title from state records.

The Division recommends that the assessor physically inspect the manufactured home to verify that the home is on a permanent foundation. Permanent foundation is not defined in statute or by the Division. The Division of Housing generally defines a permanent foundation as a single system for home support and anchoring to the ground. Manufactured homes installed on a permanent foundation must be in accordance with local jurisdictional requirements. Ideally, the inspection is made prior to the documents being submitted to the Division of Motor Vehicles.

The assessor must then be notified by either the county clerk or the owner that the title has been purged from the records. The state Division of Motor Vehicle does not notify the assessor. The home is assessed as a manufactured home (1235) for the current year. The following January 1, the land and the manufactured home are listed on one schedule and classified as a single family residence.

Although the statute does not directly address the issue of ownership, the context suggests that without other documentation properly establishing a separate ownership, the manufactured home becomes attached to, a part of and an appurtenance to the land and the two interests, land and manufactured home, are merged into a single ownership, that of the land. Thus, the assessor should list the land and building as a single ownership.

The purchaser of a new manufactured home that is transported to a site and permanently affixed to the ground so that it is no longer capable of being drawn over the public highways is not required to obtain a certificate of title. The manufactured home becomes real property when permanently affixed, § 38-29-114(2), C.R.S. The manufactured home is treated as other real property improvements; thus, the home is not assessed until the following January 1. The home and land are listed on one schedule and classified as a single-family residence/land (1112/1212) the following January 1.

Some manufactured home owners whose homes are permanently affixed to the ground refuse to surrender their titles for purging from the records because of urging from mortgage holders or personal convictions. These manufactured homes are taxed and valued separately from the land until the owner has purged the title. In order for the manufactured home to be classified as single family residential the title must be purged, § 38-29-118(2), C.R.S. Property tax statues define real property as all lands or interest in lands, mines, quarries and minerals in or under the land and rights pertaining to them, and improvements. Improvements are defined as all structures, buildings, fixtures, fences, and water rights erected upon or affixed to the land, §§ 39-1-102(7) and (14), C.R.S.

## SOLDIERS' AND SAILORS' CIVIL RELIEF ACT - EXEMPTION

A federal law, known as the Soldiers' and Sailors' Civil Relief Act of 1940, prohibits the taxation of personal property, except that used in a trade or business, owned by United States military personnel who are not legal residents of the state, and who are absent from their home states and stationed in another state solely by reason of military orders. The exemption is applicable to manufactured homes that are owned by such military personnel and that are not permanently affixed to the land on which they are located.

Assessors of counties wherein such manufactured homes are located should have on file a statement by all military persons owning such homes that they are the owner, they use the home as their residence while stationed in Colorado, and they are not a legal resident of Colorado. The statement should also be signed by the appropriate military officer of the base, such as the judge advocate or commanding officer.

Refer to **Addendum III-A, Attorney General's Opinion,** for a copy of the Attorney General's opinion concerning this issue.

## NON-RESIDENTIAL USE

Manufactured housing with a non-residential use should be classified according to its use and assessed by the assessor at 29% of actual value. An example of this would be a manufactured home used as a sales office. An exception to this would be a manufactured home used as an on-site contractor's office on a construction location, if such home has been issued an SMM (Special Mobile Machinery) license plate by the county clerk. This would be rare because most mobile contractors' offices are specially designed for that purpose, and are not manufactured homes as defined in § 42-1-102(106)(b), C.R.S.

## Camper Trailers and Trailer Coaches

Camper trailers and trailer coaches are categorized as Class D vehicles, and are issued plates by the county clerk of the county in which the owner resides. The controversy occurs when these types of trailers are parked in one place for an extended period of time. The following definitions should be reviewed.

1. Camper trailer: A wheeled vehicle having an overall length of less than 26 feet, without motive power, which is designed to be drawn by a motor vehicle over the public highways and which is generally and commonly used for temporary living or sleeping accommodations, § 42-1-102(14), C.R.S.

2. Trailer coach: Any wheeled vehicle having an overall width not exceeding eight feet and an overall length, excluding towing gear and bumpers, of not less than twenty six feet and not more than forty feet, without motive power, which is designed and generally and commonly used for occupancy by persons for residential purposes, in temporary locations, and which may occasionally be drawn over the public highways by a motor vehicle and is licensed as a vehicle, § 42-1-102(106)(a), C.R.S.

In the first definition, the words "temporary living or sleeping accommodations" are a key. In the second definition, the key phrase is "in temporary locations."

When these types of vehicles are permanently affixed to the ground, they should be valued and assessed as an improvement by the assessor. If they are permanently located but not permanently affixed to the ground, and do not have a current license plate, they should be valued and assessed as an improvement.

The assessor's judgment is crucial in determining the proper classification of the land and improvement. The criteria below can be used in that decision-making process.

Before a property is eligible to be classified as residential, it must conform to Colorado statutory requirements. The statutes define residential improvements as the following.

> **Definitions.**
> (14.3) "Residential Improvements" means a building, or that portion of a building, designed for use predominantly as a place of residency by a person, a family, or families. The term includes buildings, structures, fixtures, fences, amenities, and water rights which are an integral part of the residential use. The term also includes mobile homes as defined in section 38-29-102 (8) and manufactured homes as defined in section 42-1-102 (106)(b), C.R.S.
>
> **§ 39-1-102, C.R.S.**

**NOTE**: Section 38-29-102(8), C.R.S. was repealed by SB 89-23.

The statute above and § 39-1-102(8), C.R.S., reference § 42-1-102(106)(b), C.R.S., which defines manufactured homes for property tax purposes. Other definitions of manufactured homes are present in the statutes, but do not apply to property taxation. They are §§ 12-15.5-101(4) and 38-29-102(6), C.R.S.

**Definitions.**
(106)(b) "Manufactured home" means any preconstructed building unit or combination of preconstructed building units, without motive power, where such unit or units are manufactured in a factory or at a location other than the residential site of the completed home, which is designed and commonly used for occupancy by persons for residential purposes, in either temporary or permanent locations, and which unit or units are not licensed as a vehicle.

**§ 42-1-102, C.R.S.**

**The improvement must meet the statutory criteria reflected in number one and two below in order to be classified as residential:**

1. Does the improvement meet the statutory definition of a residential improvement, § 39-1-102(14.3), C.R.S.?

   **If not**, the land and improvement, if real property, should be classified under a non-residential subclass.

   **If so**, does the improvement comply with criterion number two?

2. Did the improvement have a residential use on the current assessment date, §§ 39-1-102(14.3), (14.4), and 105, C.R.S.?

   **If not**, the land and improvement, if real property, should be classified according to the use on the assessment date.

   **If so**, review the following criteria:

3. Does the improvement have a continuous supply of water, a working waste disposal system, electricity, and heating fuel? If local zoning and health regulation do not require this, the consideration of this criterion may be omitted.

   **NOTE**: For county planning and building code purposes, manufactured homes are defined in § 30-28-115(3)(a)(I), C.R.S.

4. Do the subdivision covenants allow improvements to be situated on the location year-round?

5. Was a certificate of occupancy issued for the improvement according to local rules and regulations?

6. Does the improvement meet the minimum requirements of a residence as defined by regulations established by local governmental entities?

7. Is the ownership of the improvement transferred through a bill of sale, statement of origin, title, or deed? Typically, property sold through a bill of sale will not qualify as a residential dwelling.

Typically, the ownership of land, houses, and cabins is transferred by deed. The ownership of manufactured and mobile homes is transferred through a statement of origin when the home is new, a title when used, and a deed when the title has been purged. Ownership of camper trailers and trailer coaches is conveyed through certificate of title. The ownership of camper coaches is conveyed through a bill of sale.

Criteria three through seven should be considered individually with no emphasis placed on any particular criterion. These criteria are qualifiers, not disqualifiers and should be used as such in the property classification process. When the classification is disputed, evidence supporting the disputed classification should be provided by the taxpayer.

The following are three examples of improvements that would not qualify as residential:

1. A "camper coach" located on an otherwise vacant parcel of land. "Camper coach" is defined by Colorado statute as the following.

> **Definitions.**
> (13) "Camper Coach" means an item of mounted equipment, weighing more than five hundred pounds, which when temporarily or permanently mounted on a motor vehicle adapts such vehicle for use as temporary living or sleeping accommodations.
>
> **§ 42-1-102, C.R.S.**

2. A camper trailer located on an otherwise vacant parcel of land during the summer months.

3. Even though not a camper trailer or a trailer coach, a metal shed that is used by the owners periodically for lodging and/or storing equipment, while engaged in recreational activities.

In either situation, the land should be classified according to its use and the improvement, if real property, should be classified as a minor structure on vacant land.

If an improvement meets the statutory definition of residential improvements and was situated on the parcel January 1, a valid Colorado license plate on the improvement does not disqualify the land from being classified as residential. In these cases, the improvement would not be assessed by the assessor, but the land could be classified as residential improved, if criteria one and two are met.

**CAUTION**: Double taxation must be avoided. This may require the assessor's office to physically inspect such vehicles every year, sending a questionnaire to each owner or conferring with the county clerk to ensure that specific ownership vehicle taxes have not been paid on the camper trailer or trailer coach.

# MAPPING PROCESSES

## SPLITS AND MERGERS

1. Review legal description in the transfer document.

2. Locate the appropriate assessment map and plot the new legal on the map.

3. Assign new parcel number(s) according to the map numbering sequence.

4. Write an abbreviated legal description for metes and bounds descriptions.

5. Determine acreage or square footage amounts, if necessary.

6. Create new cadastral cards as needed.

7. Return source document with new parcel number(s) to the transfer clerk.

**Splits and mergers can be processed any time during the year. However, total parcel values are set as of the property status on the assessment date and cannot be increased or decreased for the year of the split or merger. Abstract codes should be assigned based on the use of the property on the assessment date**.

## SUBDIVISION, TOWNHOME, CONDOMINIUM, AND PUD PLATS

1. Obtain a copy of the plat.
   a. Appraisal file (all pages).
   b. Mapping file (first page only for condo plats).

2. Review the plat, locate the appropriate assessment map, and plot the new legal on the map.

3. Assign new parcel number(s) according to the map numbering sequence.

4. Create new cadastral cards as needed.

5. Transmit a copy of the plat indicating the new parcel numbers to the person responsible for processing plats.

## BOUNDARY CHANGES FOR TAXING ENTITY

1. Review the legal description in the source document.

2. Locate the appropriate assessment map and plot the new boundary on the map.

3. Assign new parcel number(s) according to the map numbering sequence if the boundary line splits an existing parcel.

4. Update or create new cadastral cards as needed.

5. Return the source document to the person responsible for processing boundary changes.

## FORMATION OF A NEW TAXING ENTITY

1. Accurately identify those parcels that lie within the boundaries of the new district. The legal description and map of the boundaries of the new district should be verified from the source documents.

2. Once identified, the boundaries of the new district should be plotted onto the appropriate assessment maps and/or tax area maps.

3. A list of the affected parcels based on the assessment or tax area maps should be verified with the assessor's database. Where necessary, new tax areas should be created and mapped.

### MAP MAINTENANCE

1. Create new assessment maps as necessary when areas become densely platted.

2. Manual or automated updates should be made to the assessment map mylars or computer generated maps on a regular basis and new paper copies printed as necessary.

## OMITTED PROPERTY

Omitted property consists of any taxable property, such as, personal, land, improvement, or both land and improvement that is not listed on the current assessment roll. A determination must be made as to how long the property has been omitted. Statutory provisions relating to omitted property are listed below.

1. Omitted property is valued and assessed for the current year and up to two prior years when the error or omission is the fault of a governmental entity, § 39-10-101(2)(b)(II), C.R.S. If the taxpayer did not report personal property, oil and gas production, or mine production, the omitted property can be valued and assessed up to six prior years. If fraud has occurred, there is no limit on how far back taxes can be collected, § 39-10-101(2), C.R.S. When property is valued for prior years in which it was omitted, the value must reflect the appropriate level of value for each such year. Oil and gas is the exception with omitted property provisions found in § 39-10-101(2)(d), C.R.S.

2. Omitted property is added to the assessment roll as soon as the assessor discovers the omission. The assessor is also required to notify the treasurer of any unpaid taxes for prior years, § 39-5-125(1), C.R.S.

3. Omissions and corrections on the assessment roll may be processed by the assessor at any time before the tax warrant is delivered to the treasurer, § 39-5-125(2), C.R.S.

4. Once the tax warrant is delivered to the treasurer, the assessor notifies the treasurer of the omitted property and then the responsibility for omitted property, omissions, and corrections is assumed by the treasurer. Such actions are often referred to as "treasurer's assessments," §§ 39-5-125(2) and 39-10-101(2)(a), C.R.S.

5. If the property is not omitted but there is an error in the name of the person owing taxes, the treasurer is to correct the name, and then collect the taxes from the proper party, § 39-10-101(3), C.R.S.

6. The county board of equalization shall order the assessor to add to the assessment roll any omitted property which has come to its attention, § 39-8-102(1), C.R.S.

7. All persons owning taxable personal property are required to make full and complete disclosure of their personal property for assessment purposes. If an owner does not make full and complete disclosure after two successive schedules have been mailed, or upon whom the assessor or his deputy has called and left one or more schedules, that owner's taxable personal property is subject to a penalty of up to 25 percent of the assessed value of the omitted property. However, to apply the penalty, the following conditions must exist: 1) the assessor must allow ten days from the date of notification for the owner to make full and complete disclosure, and 2) the assessor must discover the property that was omitted (the Division recommends a physical inspection to discover property and a book audit to determine value), and 3) the owner must have previously filed a declaration schedule, listing his taxable personal property. This penalty also applies to any taxable personal property in a filed schedule which was represented by false, erroneous, or misleading information. For more information on this procedure, refer to **ARL Volume 5, PERSONAL PROPERTY VALUATION MANUAL**.

When adding omitted property valuation after the statutory close of the assessment period (CBOE can add after NOV deadline or assessor can add after CBOE hearings have concluded), care must be exercised to distinguish the difference between truly omitted property and an undervaluation. If the item of personal property, the improvement, or the land was not listed in the appraisal records and/or its value had not been placed on the assessment roll, the property has been omitted. If a value had been placed on the property and the taxpayer received a Notice of Valuation, and it is later discovered that the property has a greater value, the property has been undervalued and the value cannot be increased. Undervaluation does not qualify as omitted property, In Stitches, Inc., v. Denver County Board of County Commissioners, 62 P.3rd 1080 (Colo. App. 2002). The assessor should be prepared to defend omitted property additions to the assessment roll or tax warrant by use of records which substantiate the omission and the value attributable to the property.

Whenever it is discovered that any taxable property has been omitted from the assessment roll, the assessor shall determine the value of the omitted property and list the property on the assessment roll, as follows.

1. Determine the number of years the property was omitted. Omitted property can be assessed and valued for the current year and two prior years, if necessary, as described above and in § 39-10-101(2)(b), C.R.S.

2. Determine the classification (use) of the property.

3. Calculate the value of the property for the current and any prior years it was omitted.

   **NOTE**: The value must reflect the appropriate level of value and, if residential, must reflect the appropriate assessment rate. Table 1 details the correct level of value and assessment rates for past years.

**TABLE 1**

| Assessment Year | Appraisal Date | Assessment Rate Res. | Other |
|---|---|---|---|
| 1980-1982 | January 1, 1973 (1971 & 1972 sales) | 30% | 30% |
| 1983-1986 | January 1, 1977 (1975 & 1976 sales) | 21% | 29% |
| 1987 | January 1, 1985 (L.V.*) January 1, 1984 (A.D.**) (1983 & 1984 sales) | 18% | 29% |
| 1988 | January 1, 1985 (L.V.*) January 1, 1984 (A.D.**) (1983 & 1984 sales) | 16% | 29% |
| 1989-1990 | June 30, 1988 (1/1/87-6/30/88 sales) | 15% | 29% |
| 1991-1992 | June 30, 1990 (1/1/89-6/30/90 sales) | 14.34% | 29% |
| 1993-1994 | June 30, 1992 (1/1/91-6/30/92 sales) | 12.86% | 29% |
| 1995-1996 | June 30, 1994 (1/1/93-6/30/94) | 10.36% | 29% |
| 1997-1998 | June 30, 1996 (1/1/95-6/30/96) | 9.74% | 29% |
| 1999-2000 | June 30, 1998 (1/1/97-6/30/98) | 9.74% | 29% |
| 2001-2002 | June 30, 2000 (1/1/99-6/30/00) | 9.15% | 29% |
| 2003-2004 | June 30, 2002 (1/1/01-6/30/02) | 7.96% | 29% |
| 2005-2006 | June 30, 2004 (1/1/03-6/30/04) | 7.96% | 29% |

*Level of Value
**Appraisal Date

4. Assign a parcel number or schedule number to the property, if necessary.

5. Add the omitted property to the assessment roll.

6. Prepare and mail the owner a special notice of valuation (SNOV) and protest form for each year the omitted property is being assessed.

   **NOTE**: You should provide 30 days to file an objection to the value with the assessor.

   If the assessor denies the protest, the taxpayer must file an abatement petition to appeal the assessor's denial with the board of county commissioners. If no protest is filed, the taxpayer has two years from the date the taxes are levied on the omitted property to file an abatement. The abatement may be filed for any or all years the property was omitted.

7. Notify the treasurer of the taxes due for prior years.

   **NOTE**: The tax calculation must reflect the appropriate tax rates.

## OMITTED REVENUE

When taxable property is assigned to the wrong tax area, or when the boundaries of a tax area are drawn incorrectly, some properties listed on the tax warrant may not include the mill levy for one or more taxing entities. Such an event is similar to omitted property in that the properties and their owners may benefit from the services provided by the taxing entity without being subject to the entity's mill levy. This may result in a loss of revenue to the taxing entity and/or a greater tax burden imposed upon other taxpayers.

When such an omission is caused by assessor error, such as failure to process a recorded inclusion order, the question arises as to whether a correction should be made for prior years or only for the current year forward. Section 39-10-101(2)(a)(I), C.R.S., allows the treasurer to assess and collect taxes for property that was omitted from the tax warrant and not valued for assessment. If the situation above is interpreted literally, the properties in question do not satisfy these requirements.

However, in Aggers, Assessor, v. People Ex Rel. The Town of Mountclair, 20 Colo. 348, 38 P. 386 (1894), the court reviewed the occurrence of such an omission and determined that omitted revenue should be collected. In this case, the assessor had failed to extend the mill levies certified over multiple years by the Town of Mountclair to property that had been annexed to the town. The town argued that it was entitled to the collection of omitted revenue pursuant to the predecessor statutes to §§ 39-10-101(2)(a)(I) and 39-5-125, C.R.S. The court agreed, finding that although the situation did not fall within the strict letter of statute, it was clearly within its spirit and intent.

> The purpose of the statute evidently is to prevent property from escaping taxation through oversight, omission or mistake, and to enable the taxing officers to impose upon all property its just and equal proportion of the public burden. The strict construction contended for by counsel for respondent would prevent the accomplishment of this object and purpose . . . .
>
> No reason can be perceived why the omission to extend or enter the taxes upon property listed and valued would justify the exemption of such property from taxation, when the omission of the property itself from the tax list would not do so. (20 Colo., page 351)

The basis for the Aggers decision remains valid today. From the perspectives of the affected parties, namely, the property owner(s), the taxing entity, and the other taxpayers serviced by the taxing entity, when a tax area is assigned incorrectly, the error can result in the non-extension of an entity's mill levy. The error has the same effect on the parties, as would the omission of the property itself from the tax warrant. Therefore, if the omission was an assessor error, the property is subject to the collection of up to two years' omitted revenue. A Special Notice of Valuation is not mailed because no change is being made to the value or classification of the property. However, a letter of explanation should be sent to the taxpayer.

## OUT-OF-STATE OWNERSHIP LIST

**When schedules required - non-resident owners listed.**
(3) The assessor shall furnish annually by the first day of June to the executive director of the department of revenue a list of the names and addresses of all nonresidents of the state as shown by the assessor's records as of the previous assessment date to have owned real or personal property within the county.

**§ 39-5-102, C.R.S.**

The Department of Revenue requests that the data be submitted electronically if possible, preferably in Excel format. The data may be e-mailed, or a CD or disk may be mailed to the address below.

Department of Revenue
Audit Selection Committee
400 So. Colorado Blvd., Suite 400
Denver, Colorado 80246
Phone: (303) 355-0400

Questions concerning electronic submissions should be directed to the Audit Selection Committee at the above telephone number.

## PERSONAL PROPERTY ISSUES

### AFTER THE ASSESSMENT DATE

If a firm commences business after the assessment date, the property is taxable January 1 of the year following the year it is put into use, § 39-5-110(1), C.R.S. In other words, if personal property is newly acquired and put into use, it becomes taxable the following January 1 if the property is used for business purposes, § 39-3-118.5, C.R.S. If the property is in storage, it does not become taxable until January 1 following the year it is put into use, §§ 39-5-104.5 and 110, C.R.S. Refer to **ARL Volume 5**, **PERSONAL PROPERTY VALUATION MANUAL**, for further information.

The personal property of a firm that quits business after the assessment date is taxable for the entire year, § 39-5-104.5, C.R.S. If either the assessor or treasurer believes that personal property may be removed, dissipated, or distributed so that taxes may not be collected, the treasurer may proceed to collect the taxes immediately, and, if necessary, distrain, seize, and sell the personal property, §§ 39-10-111(1)(a), and 113(1)(a) and (2), C.R.S.

## INCENTIVE PAYMENT

A county or municipality can enter into negotiations for an incentive payment with owners of new business facilities. The incentives cannot exceed 50 percent of the personal property taxes paid to the county or city, nor can the agreement last more than four years, §§ 30-11-123 and 31-15-903, C.R.S. Once a county or city has entered into an agreement, the school district may also elect to offer an incentive payment, § 22-32-110(1)(ff), C.R.S. Additional incentives are available through income tax credits, real property tax incentives, and sales tax refunds. For further information on these incentives refer to §§ 39-30-105 and 107.5, C.R.S.

## PERSONAL PROPERTY MOVED IN OR OUT OF STATE AFTER JANUARY 1

Personal property is valued as of the assessment date and is valued for the entire year regardless of any destruction, conveyance, relocation, or change in taxable status, § 39-5-104.5, C.R.S. Personal property removed during the assessment year is taxable for the entire year, § 39-5-104.5, C.R.S. Whenever taxable personal property is brought into the state after the assessment date, the owner must complete a personal property declaration if value is over $2,500 and file it with the assessor § 39-5-110, C.R.S. The owner of any personal property removed from the state is liable for the entire tax obligation, § 39-5-110(2), C.R.S.

## EXEMPTION OF CONSUMABLE PERSONAL PROPERTY

In 2000, the Colorado Legislature amended § 39-3-119, C.R.S., to require the Division of Property Taxation to "publish in the manuals, appraisal procedures, and instructions prepared and published pursuant to section 39-2-109(1)(e), a definition or description of the types of personal property that are 'held for consumption by any business' and therefore exempt from the levy and collection of property tax pursuant to this section."

In conjunction with input from both industry and assessors, the Division has developed two criteria to aid in determining whether an item of personal property should be considered consumable and, therefore, exempt from the levy and collection of property tax pursuant to this section." To be classified as "consumable," an item of personal property must fall under one of the two criteria identified below:

1. The item must have an economic life of one (1) year or less.

   This criteria applies to any item of personal property regardless of original acquisition cost. This category also includes non-functional personal property items that are used as a source of parts for the repair of operational machinery and equipment.

2. The item of personal property has an economic life exceeding one year and has an acquisition cost, inclusive of installation cost, sales tax, and freight expense, of $250 or less.

   The $250 per item limitation shall apply to the cost of the item at the time of acquisition. In addition, the $250 per item limitation applies to each personal property item as completely assembled for use in the business.

   For leased equipment having a "buyout" provision occurring during or at the end of a lease, the fair market value of the item, including installation, sales tax, and freight, at the time the buyout provision is executed, is to be used as the acquisition cost for the purposes of the $250 threshold.

## PROCESSING DECLARATIONS

1. Date stamp declaration schedule.

2. Verify that the declaration schedule was timely filed.

   **NOTE**: If the schedule is filed after the deadline, it is necessary to staple the envelope showing the postmark to the declaration schedule.

3. Match declaration schedule with personal property file.

4. Review for address and/or ownership changes and for owner's social security number or federal identification number.

5. Review the Personal Property Declaration Schedule. Determine if the form was properly completed and signed by the property owner or agent. The itemized list of personal may be shown on the declaration schedule or furnished on an exhibit attached to the declaration schedule, § 39-5-108, C.R.S.

6. Review the file for audit notes or other documentation that should be referenced during processing.

7. Review the current personal property record and make necessary adjustments. Review and reconcile the asset listing and/or depreciation schedule. Check for other assets that may not be listed in the addition and deletion portion of the declaration schedule.

8. Check for leased equipment reported on the declaration schedule. This tracking can be done manually or electronically.

9. Enter property changes into the computer system.

10. File personal property record.

## MOVABLE EQUIPMENT

All portable or movable equipment, which is not subject to specific ownership taxation such as dog racing gates and trash dumpsters, is valued and assessed as provided in § 39-1-103(5)(a), C.R.S. Also refer to §§ 42-3-102(1) and 103(3), C.R.S.

An exception is oil and gas rotary drilling rigs which are valued and assessed as provided in § 39-5-113.3, C.R.S.

All owners of this type of property must file a Personal Property Declaration Schedule (Form DS 056). If the equipment is expected to be located in more than one county during the year, the owner indicates the counties and the estimated length of time it will be in each county. The assessor making the original assessment (county in which the equipment is first located during the current calendar year) apportions the value among counties affected according to the portion of the year, in days, the equipment will reside in each. A copy of the value is mailed to the equipment owner and to the assessor of each affected county. The value determined by the assessor of the county of original assessment is used by all county assessors involved, §§ 39-5-113(1), and (2), C.R.S.

However, if the equipment is moved into a county not included in the original apportionment, the assessor of the county requests an amended apportionment of value from the county originating the assessment. Failure to request an amended apportionment results in no assessed valuation for taxes on this equipment for the county not included in the original apportionment. If the amended apportionment of value is received by an assessor after the Abstract of Assessment has been filed, either an abatement or an additional assessment (omitted property) shall be made as necessary, § 39-5-113(3), C.R.S.

Refer to **ARL Volume 5, PERSONAL PROPERTY VALUATION MANUAL** for apportionment procedures.

## PORTS OF ENTRY - FORM 301

Mobile machinery and self-propelled construction equipment is generally registered with the county clerk for payment of annual specific ownership taxes in lieu of ad valorem taxation. Owners of equipment located in Colorado for only a portion of the year can also obtain a prorated registration through a Colorado port of entry. However, if such equipment is operated exclusively on property owned or leased by the owner of the equipment and never operated on a public road, the owner may declare it for ad valorem taxation. If such equipment must be moved through a port of entry, it may be detained without proof that taxes were paid.

To avoid detention, the owner or agent may list the equipment on Form 301 and have it signed by the assessor or deputy in the county of original assessment. Refer to **ARL Volume 5, PERSONAL PROPERTY VALUATION MANUAL** for detailed procedures. Refer to **Addendum 3-C, Movable Equipment Certification Form,** for a sample form. (Form 301 can be obtained from the vendor, PrintRite.)

## GREAT OUTDOORS COLORADO TRUST FUND

Each year during the regular tax assessment period, the board of county commissioners of each county in which a state agency has acquired real property shall provide to each state agency that holds such real property interests with:

1. The current assessed value of each real property interest expressed in dollars;

2. The amount of the payment in lieu of taxes (PILT) due on each real property interest, based on the value and tax rate that would be applicable to the real property interest;

3. The date the payment in lieu of taxes is due for such real property interests, based on the date property taxes are due, § 33-60-104.5(b)(I)(II)(III), C.R.S.

## PREDATORY ANIMAL CONTROL

Colorado statutes provide for a predatory animal control program, implemented by the Department of Agriculture, for the protection of sheep, §§ 35-40-100.2 through 207, C.R.S. A local protection program may be implemented by the county commissioners through a county-wide license fee on sheep and/or cattle for local control of predatory animals. At present, no county uses this program for cattle.

By October 1 of each year, the Colorado Sheep and Wool Board must provide the assessor with a certified list containing all the information necessary to implement the program. The information consists of the name and address of each sheep owner in the county, the number of sheep which were shorn and for which federal incentive payments were received by each sheep owner during the previous calendar year, § 35-40-205, C.R.S.

The optional county license fee per head is by the sheep producers within the county. The assessor, after receiving the list of names and number of sheep, transmits the list to the board of county commissioners by November 1, § 35-40-205, C.R.S. The county commissioners then order (by resolution) that the county license fee be levied against all sheep herded or grazed in the county during the previous year, § 35-40-205, C.R.S.

The resolution becomes very important in the control and collection of delinquent county predatory animal sheep fees. It is the opinion of some county attorneys that without such a resolution, the collection of delinquent county sheep fees may not be enforceable.

Upon the order of the board of county commissioners, the assessor enters on the property tax roll the amount of the county sheep fees due from each sheep owner. This is a sheep license fee, not a property tax assessment. However, when levied, it becomes a lien upon the property of the sheep owner, enforceable under the personal property tax collection laws. When collected, the fees are credited by the county treasurer to the county predatory animal control fund, § 35-40-205(2), C.R.S.

## PHYSICAL INSPECTION OF REAL PROPERTY – GUIDELINES

A notice should be placed in a local newspaper stating that the assessor's office is conducting property inspections in specified neighborhoods. The notice should also indicate that the appraiser will leave an informational door hanger to schedule an appointment if no one is home.

### PRIOR TO FIELD INSPECTION

1. Contact the property owner and establish a time to inspect the property.

2. Pull and review the appraisal records and all the pertinent information (building permits, TD-1000, sales verification letters, etc.) that pertains to the property.

3. If the location of the property is unknown, obtain and reference an assessment map to identify the property location.

4. Make sure the following items are available and in working order.
    a. Camera and film or video camcorder and tape
    b. Measuring tape
    c. Flashlight
    d. Calculator
    e. Protective wear (boots/old shoes, rain gear, etc.)
    f. County identification
    g. Paper and pencil

## FIELD INSPECTION

1. Visually survey the neighborhood. Note neighborhood appearance, street traffic, location of street lights, amenities, existing obsolescence, etc.

   **NOTE**: If no one is home, leave an informational door hanger so the property owner can schedule an appointment for the inspection.

2. Visually survey the property site. Identify installed utilities, parcel size, parcel shape, parcel location within the block/surrounding area, excess land, topography, location of structures, drainage, etc.

3. Make a careful inspection of the interior finish, recording the details in the appropriate place on the property record card. Using a characteristic check sheet to inventory the interior can assist in capturing all pertinent data. Note the floor plan (basement or other floors), room counts, plumbing, fireplaces, type of heating, material quality, physical condition, functional obsolescence, general condition, necessary repairs, etc.

4. Inspect the exterior of the structure(s), including the rear of structure. Check all decks, garages, outbuildings, concrete slabs, etc. Make a note of the property condition, material quality, needed repairs, roof type, etc.

5. Verify the property classification. Compare the property with the base specifications in **Chapter 6, Property Classification Guidelines and Assessment Percentages**, to find the proper class and sub-classification. Note any changes in property use.

6. Measure the structure(s). If the structure is newly constructed, measure the entire structure. Typically, the measurement should start with the side that has the least number of angles. The starting point should be clearly marked on the grid created by the appraiser. The measurements can be spot checked if the structure has been previously measured. Make note of bay windows, second stories which extend over the first story, etc. **Make sure all measurements close before leaving the site.**

   **NOTE**: If your county has a building department, you may want to review the plans of particularly difficult structures.

   The appraiser should make a scaled sketch of each level of the structure and show a calculation of square feet and/or cubic feet areas. When calculating square footages, areas that are not finished should be separately identified. The sketch should show the location of each structure in relation to others and in relation to the land parcel.

7. Take a photograph of the major structures. Take photographs of anything that may aid in the valuation of the property. When using a Polaroid camera, write the legal description or property address on the photograph. Note the date on the photograph. When using a camera where the film must be developed, make a notation of the exposure number on the property record. Once the film is developed, write the legal description or property address and the date of the appraisal on the photograph. As an alternative to a photograph, a video camcorder can be very effective in capturing the property and comparable properties.

For additional information on physical inspections, refer to:

**ARL Volume 2, ADMINISTRATIVE AND ASSESSMENT PROCEDURES**, Division of Property Taxation, **Chapter 8, Assessment Planning Guidelines.**

"How to Make an Inspection," The Appraisal Journal, Barlow, Philip Marc, October 1985, pages 606-616.

"Property Inspection," course material from Appraisal 102, Division of Property Taxation, January, 1993.

The Appraisal of Real Estate, American Institute of Real Estate Appraisers, November, 1983, chapters 8, 9, and 10.

Blankenship, Frank J., Ph.D., IFAS, CA-C, The Prentice-Hall Real Estate Appraisal Deskbook, Prentice-Hall, Inc., 1986, chapter 3.

## PROCESSING PLATS

Subdivision and condominium plats can be processed at any time during the year. The original parcel value and classification must remain the same as assigned to the property on the January 1 assessment date.

1. Make one copy of the plat for the appraisal file and one copy for the mapping file. (Mapping section)
    a. Appraisal file (all pages).
    b. Mapping file (first page only for condo plats).

    **NOTE**: See Mapping - Subdivision, Townhome, Condominium, and PUD Plats for map maintenance.

2. Review the plat for the following:
    a. Verify the subdivided property by confirming the legal description and acreage.
    b. Verify ownership - does the owner listed on the plat match the owner listed on the appraisal record and declaration? IT MUST!
    c. Verify that the owner(s) signed the plat and that it has been acknowledged.

    If the plat is not signed by the owner(s), contact the planning department or owner of record and find out why.

3. For resubdivision plats, determine when the original subdivision was processed.
    a. If the original subdivision was processed prior to the current assessment date, proceed with step 4.
    b. If the original subdivision was processed after the current assessment date, refer to ***Resubdivision Plats - Processing*** for processing procedures.

4. Determine if the roads are dedicated to the county or city and accepted for public use. (Applies to subdivision plats.) This information is generally located in the dedication statement on the plat.
    a. Roads that are dedicated and accepted by the county or city are exempt from taxation. The taxable value should be prorated from January 1 to the date of the plat. The taxable value should be carried under the abstract code 0100 or 0200. The exempt value should be carried under the appropriate exempt abstract code, such as political subdivisions miscellaneous classification (9148).
    b. Roads that are not dedicated and accepted are taxable and should be listed under the property owner's name and classified as 0100 or 0200.

5. Is the common area owned by a conforming common interest and ownership community? (Applies to subdivisions.) Refer to **ARL Volume 3, LAND VALUATION MANUAL, Chapter 7, Special Issues in Land Valuation**.
    a. If so, the value of the common area should be reflected in the value of the individual subdivision lots and the common area should not be separately assessed. The common area should be assigned a parcel or schedule number and an inactive record should be carried on the computer system.
    b. If not, the common area should be valued separately and carried under the property owner's name, usually the homeowner's association.

6. For condominiums, review the declaration for the following:
    a. Verify the unit numbers on the declaration along with the percentage of general common elements per unit. Total the percentages; they must equal 100 percent. If the plat information differs from the declaration, contact the planning department or owner of record and find out why.
    b. Check for garage or parking space units. Should they have separate appraisal records or are they a part of the common elements?
    c. Verify how the units are owned. (Time share or quarter share, unit numbers or letters, building number or letters, name of the project, garage and parking spaces, etc.)

    A CONDOMINIUM PROJECT CANNOT BE PROCESSED WITHOUT A DECLARATION. WATCH FOR MISSING EXHIBITS LISTED IN THE DECLARATION.

7. Create a master (recap) card for the condominium, townhouse, or PUD project. Areas to complete:
    a. City or town.
    b. Notation of the original legal including lot, block and subdivision could be helpful.
    c. Name of the project.
    d. Owner's name and address, date of the plat and declaration, and reception numbers.
    e. Important remarks concerning the project, such as time share or quarter share, percent complete, date project started, number of buildings, number of units, etc.

f. Number of acres involved.
g. Land calculations showing the basis for the original land value.
h. Project photo.

8. File a cross-reference card showing the name of the project, the date and reception number of the plat and declaration, etc. under the original legal description. This could avoid unnecessary delays in locating information.

9. Obtain parcel identification numbers from the mapping section for each lot, unit, and common area.

10. Determine the actual and assessed values for land and improvements.

    **WHEN PROCESSING PLATS, REMEMBER**: **Total parcel values are set as of the property status on the assessment date and cannot be increased or decreased for the year the plat is filed based solely on the plat being filed, after the value has been set by the assessor. Abstract codes should be assigned based on the use of the property on the assessment date**.

    a. If a project is broken out before the notice of valuation deadline, the current land and improvement values should be verified with the Appraisal Team.

       **NOTE**: This check is suggested because the current actual value as of the assessment date may not be listed on the assessment record at the time of processing.

    b. If a project is 100 percent complete on January 1, but the plat for the project was not filed by the completion date, the land and improvement value should be verified with the Appraisal Team.
    c. If a project is broken out after the notice of valuation deadline, the current actual value as of the assessment date is apportioned to the lots or units in the project.

       This apportionment can be based on acreage, buildable units, site, or the percentage a unit has in the general common elements. The method used should be verified with the Appraisal Team.

11. Set up appraisal records for each lot, unit, road, common area, and garage units when applicable. Include the following:
    a. Schedule or parcel number, tax area, abstract classification code(s), name of project or subdivision, building and unit number or the block and lot number.
    b. Name of the current owner, date of the subdivision or condominium plat, condominium declaration, and reception numbers.
    c. Condominiums: The interest percentage in the general common elements attributable to each unit as outlined in the declaration.
    d. Subdivisions, townhomes, and PUD: Acreage of the lot and number of buildable units, if provided.
    e. Land and improvement actual value.

12. Enter new numbers into the computer system. **Be sure to delete old numbers**.

13. Set up the necessary subdivision files.

For additional information on the subdivision approval process, refer to your county planning and zoning guidelines and procedures.

## RESUBDIVISION PLATS - PROCESSING

Resubdivision plats can be processed at any time during the year, but the original parcel value and classification must remain the same as assigned on the January 1 assessment date.

The words underlined above are operative when processing a replat of an existing subdivision. When the original subdivision is platted and filed, the legal description changes from a rectangular survey or a metes and bounds description to lot and block of a recorded subdivision. That legal description change and the attendant splitting of the original parcel value are covered in the general policy as shown below:

| | | | |
|---|---|---|---|
| 120 ac in NE S.4 T.12S R.54W | Lot 1 | Lot 2 | Lot 3 |
| $12,000 | 30 ac | 50 ac | 40 ac |
| (Value determined on per acre basis @ $100/ac) | $3,000 | $5,000 | $4,000 |

$ 12,000 ----------> $ 12,000

When an area is replatted, the designation of <u>the original parcel</u> shifts from the parcel described by the rectangular survey or metes and bounds to the parcel described by the lot and block as illustrated below. The values of the lots are adjusted the following January 1.

| | | | | | |
|---|---|---|---|---|---|
| Lot 1 | Lot 2 | Lot 3 | Lot 1 | Lot 2 | Lot 3 |
| 30 ac | 50 ac | 40 ac | $3,000 | $5,000 | $4,000 |
| $3,000 | $5,000 | $4,000 | now 40 ac | now 40 ac | now 40 ac |

VALUE STAYS THE SAME UNTIL NEXT JANUARY 1

Lot 1= $3,000 (Original Parcel)---> Lot 1 = $3,000

Lot 2= $5,000 (Original Parcel)---> Lot 2 = $5,000

Lot 3= $4,000 (Original Parcel)---> Lot 3 = $4,000

If the lots are further divided by a replat, the original lot values are the starting point:

| | | | | | |
|---|---|---|---|---|---|
| Lot 1 | Lot 2 | Lot 3 | Lot 1 | Lot 2 | Lot 3 |
| $ 3,000 | $ 5,000 | $ 4,000 | $1,500 | $2,500 | $2,000 |
| | | | Lot 4 | Lot 5 | Lot 6 |
| | | | $1,500 | $2,500 | $2,000 |

Lot 1= $3,000 ----------> Lots 1 & 4 = $ 3,000

Lot 2= $5,000 ----------> Lots 2 & 5 = $ 5,000

Lot 3= $4,000 ----------> Lots 3 & 6 = $ 4,000

Care should be taken when allocating original lot values to the subdivided parcels. Allocations should be based on the same valuation unit as the original parcel and be well documented.

Return to Step 4 of ***Processing Plats***.

## SEVERED MINERALS – ADMINISTRATIVE PROCEDURES

A mineral estate is real property, but it is taxed separately only when severed from the surface estate. When the ownership of the surface estate and part or all of the mineral estate is different, a taxable severed mineral interest is created. Therefore, the assessor must determine if the mineral estate is severed as of January 1 of each year, creating a severed mineral interest. A severed mineral interest is subject to the same mill levy and is assigned the same tax area code as the surface ownership.

### MINERAL INTEREST SEVERED PRIOR YEAR

Interests severed through a deed or reservation during the previous year must be added to the assessment roll.

1. Pull the accounts severed last year. This flagging system may be manual or computerized.
2. Assign a schedule number to each account, if necessary.
3. Calculate a value for the interest.
4. Enter the grantee, reception number, and sales information on the computer system.

### MINERAL INTERST REJOINED WITH SURFACE PRIOR YEAR

Mineral reservations that end due to a treasurer's deed, a mineral deed to the surface owner or mineral reservation expiring must be removed from the assessment roll.

1. Pull the accounts rejoined with the surface the prior year.

2. Remove the accounts from the computer system.

**NOTE**: Before removing a severed mineral account from the assessment roll, review the treasurer's tax sale list to verify that the interest was not sold at tax sale. If the mineral was sold, it must remain on the assessment roll.

### MINERAL INTEREST UNDER PRODUCTION

A mineral interest on acreage that is under production on January 1 must be removed from the assessment roll. Property tax on this interest is paid through assessment of the leasehold value.

1. Review affidavits and determine if there are severed minerals on acreage that is under production as of the assessment date.

2. Remove the account from the assessment roll.

3. Flag the account "under production."

## SPECIAL DISTRICT ELECTIONS – PROPERTY OWNERS LIST

The assessor must provide a certified initial listing of property owners within the boundaries of a special district to the designated election official of the district as of the 30th day before the election, § 1-5-304, C.R.S. A supplemental list for the political subdivision is provided on the 20th day before the election, or a district may order a complete list as of the 20th day before the election. The supplemental list contains the names and addresses of all new owners since the initial list was provided, § 1-5-304, C.R.S. The assessor may charge the special district for the expense of generating the list, §§ 1-1-104(33) and 32-1-103(14.5), C.R.S. This includes computer run time, paper costs, and employee time. The fee is the greater of twenty-five dollars for both lists or one cent per name contained on the lists, § 1-5-304, C.R.S.

Due to the election requirements of 1992 Amendment 1, it is imperative that county assessors have current tax area maps in addition to special district maps. Each district is required to file such map with the assessor on or before January 1 of each year, § 32-1-306, C.R.S. Additionally, county clerks or the special district designated election official may request information on "overlapping" districts because of the necessity of coordinated elections. Coordinated elections require the selection of polling places convenient to all electors. County clerks may request maps of overlapping districts to help the directors choose coordinated polling places, §§ 1-1-104(6.5) and 111(3), C.R.S.

## SPECIAL NOTICES OF VALUE

### CIRCUMSTANCES REQUIRING A SPECIAL NOV

Refer to **Chapter 9**, **Form Standards**, of this manual for the Special Notice of Valuation and Protest Form requirements and the form approval process.

## Omission of Property Value From the Tax Warrant

Upon discovering any taxable real property that has been omitted from the tax warrant, the assessor immediately values such property. To comply with the notice and hearing requirements demanded by due process, the assessor notifies the owner of the property's valuation by mailing a Special Notice of Valuation and a Protest Form. The Division recommends that the owner be provided a 30-day protest period.

## New Construction Added to Assessment Roll After May 1

A Special Notice of Valuation and protest form are mailed for new construction discovered after May 1. The Division recommends that the owner be provided a 30-day protest period.

## Manufactured Home Moved into the County

When a manufactured home moves into the county from out of state, the assessor values the home. A Special Notice of Valuation and Protest Form must be mailed to the owner of the property and a protest period allowed. The Division recommends that the owner be provided a 30-day protest period.

## Forfeiture of the Exempt Status of Property

When the assessor receives a copy of the Notice of Forfeiture, the property is classified, valued and put on the tax roll. The value of the previously exempt property is determined or verified, and a Special Notice of Valuation and Protest Form is immediately mailed to the property owner. The Division recommends that the owner be provided a 30-day protest period. The property is taxable as of either January 1 of the current or prior year.

See also **Chapter 10, Exemptions**, of this manual for more information on forfeitures.

## Revocation of Exempt Status by the Property Tax Administrator

Upon receiving the Notice of Revocation, the assessor classifies and values the property, returns the property to the tax roll, and mails a Special Notice of Valuation and Protest Form to the property owner.

The Division recommends that the owner be provided a 30-day protest period. The notice will reflect either a prorated value or a full year's value depending upon the date of the revocation.

## Loss of Exempt Status Because of Transfer of Property

Whenever assessor's personnel process a transfer on a property that has been granted an exemption by the Division, a copy of the deed should be forwarded to the Division as owners rarely remember to notify the Division when property is sold.

If it appears that the new owner might also qualify for exemption, the owner should be contacted by the assessor's office with instructions to either contact the exemptions section at the Division or to visit the Division's website to get an application form. (http://www.dola.state.co.us/PropertyTax/Exemption.htm.) Exemptions do not run with the land, and each new owner must be granted its own exemption. A good example of this is when one church sells its property to another, even if the churches appear to be affiliated. The new church must apply for its own exemption. It is important to notify the new owner promptly that an application must be filed. The Administrator may not grant an exemption for tax years earlier than the year prior to the year in which the application was filed. Delay in notifying the owner could result in the denial of the

opportunity to apply for exemption for years in which it could be granted. There are no remedies such as abatements available to those who fall outside the noted time frame.

If personal property loses exempt status, the property is not taxable until the following January 1.

## PROCEDURES FOR ISSUING A SPECIAL NOV

In all cases requiring a Special Notice of Valuation, the property is valued and the owner is notified of the valuation by the special notice. Refer to **Chapter 9, Form Standards**, for a sample Special Notice of Valuation, and **Addendum 9-F, Special Protest Form,** for a sample Special Protest Form. The notice should also advise the owner of administrative remedies.

In the case of omitted property that has been valued for two or more prior years, a special notice is generated for each year the property was omitted. When determining the actual value of property for past years, the assessor must use appraisal data from the appropriate level of value. The assessed value and taxes due must be calculated using the appropriate assessment percentage and tax area (dictates the mill levy) for past years.

The owner should be provided a protest period of 30 days from the date of the special notice. The 30-day protest period is not specifically provided by statute; however, a reasonable protest period helps to preserve the right of due process. If a protest is filed, the assessor should respond to the protest within 30 days.

A Special Notice of Determination form is provided for this purpose in **Addendum 9-H, Special Notice of Determination**. If the owner disagrees with the assessor's decision, an abatement petition may be filed to allow the valuation appeal to be heard by the county commissioners.

If the appeal is filed during the regular protest period, the county board of equalization may hear the appeal during county board hearings. As with protests filed during the regular protest period, taxpayers cannot appeal to the county board without first filing a protest with the assessor. If the appeal is filed outside the time when the county board of equalization has concluded its hearings, the appeal can be heard by the county commissioners at a regular commissioners meeting, § 39-10-114, C.R.S.

After the 30 days have expired, the valuation is added to the assessment roll, and the treasurer is notified of the taxes due for prior years.

**NOTE**: If no appeal is filed, taxpayers may file abatements on the omitted values for up to 24 months after notification of the omitted property taxes.

## TITLE CONVEYANCE

1. Obtain necessary conveyance documents from the clerk and recorder's records. The list below is not considered to be all-inclusive.

| | | |
|---|---|---|
| Articles of Incorporation | Easements | Right-of-Way Easement |
| Bargain and Sale Deed | Executors Deed | Sheriff's Deed |
| Bankruptcy Deed | Guardianship Deed | Special Warranty Deed |
| Condemnation documents | Installment Land Contract | Statement of Authority |
| Conservation Easement | Letters of Administration | Supplementary Affidavit |
| Conservator Deed | Letters of Testamentary | Treasurer Deed |
| Correction Document | Mineral Deed | Trustees Deed |
| Court Decrees | Mining Deed | Warranty Deed |
| Court Orders | Patent | Last Will and Testament |
| Death Certificate | Personal Representative Deed | (if certified) |
| Decree of Distribution | Power of Attorney | |
| Decree of Heirship | Public Trustees Deed | |
| Divorce Decree * | Quit Claim Deed | |

*Often this document is not recorded with the clerk and recorder. When recorded, it is necessary to review the language to determine if the ownership was divested and vested.

2. Review the conveyance document. Check for necessary deed elements. Check for severed mineral reservations. Determine if the deed has a documentary fee.
    a. If the conveyance document created a newly severed mineral interest, the interest must be flagged so it can be listed and valued on the next year's assessment roll.
    b. If the conveyance document reflects a non-documentary fee transaction, enter the appropriate sales code into the computer system.

3. Verify that a Real Property Transfer Declaration (TD-1000) has been filed for every transaction involving a documentary fee.
    a. Review the information included on the TD-1000 and mail a follow up confirmation letter or questionnaire if more information is needed.
        i. If the TD-1000 is complete and reflects an arm's-length sale, code the transaction as qualified and enter into the computer system.
        ii. If the TD-1000 is complete and indicates the sale is not arm's-length, code the transaction as an unqualified sale and enter a reason code into the computer system.
    b. Attach the TD-1000 to the conveyance document and file for in-house reference.

**NOTE**: Refer to **ARL Volume 3**, **LAND VALUATION MANUAL**, **Chapter 3, Sales Confirmation and Stratification**, for detailed procedures for sales confirmation.

    c. If a TD-1000 was not filed or is incomplete, mail the grantee a TD-1000 form and explain that a penalty will be applied if it is not completed and returned. If the TD-1000 is incomplete, highlight the appropriate area(s) needing completion, return the document to the grantee, and explain to the grantee your reasons for returning the document.

i. Flag the parcel in the computer system to receive a penalty.
ii. Add the parcel information concerning the mailed declaration to a tracking log.
iii. Remove the penalty flag if the declaration is returned.

4. Sort the conveyance documents into the following categories:
   a. Subdivisions.
   b. Township and range.
   c. Metes and bounds.

   (Parcel number is an alternate sort category.)

5. Locate the property on the assessment map and determine if the conveyance is a straight transfer or creates a merger or split.

6. Sort the documents into the following categories:
   a. Straight transfer.
   b. Death certificate and/or supplemental affidavit.
   c. Severed mineral transfer or reservation.
   d. Merger.
   e. Split.

   **NOTE:** The process for ownership changes resulting from the filing of a death certificate for property held by joint tenants and severed mineral transfers that do not require interest changes are considered straight transfers. When the transfer requires an interest change, or the splitting or merging of parcels, additional steps are necessary.

7. Pull the necessary ownership records.

8. Verify the legal description. Contact the necessary parties by telephone or letter if an error exists in the legal description.

9. Verify that the owner's name appearing on the ownership record is identical to the name listed on the deed. If the names are identical and the process is a straight transfer, simply change the ownership. If the names are not identical:
   a. Research clerk and recorder's records for missed documents.
   b. Contact the necessary parties by telephone or letter.

10. If a conveyance causes a split or merger, give the document to the mapping department for parcel number changes.

    When the conveyance causes a split, merger, or interest change the following must be accomplished.

    a. Set up new records for each parcel. Include the following:
       i. Schedule or parcel number, tax area, abstract classification code(s), name of project or subdivision, building and unit number or the block and lot number.
       ii. Name of the current owner and reception numbers.
       iii. Create new legal descriptions for the parcels.
       iv. Acreage of the lot and number of buildable units, if available.

b. Determine the actual and assessed values for land and improvements. Remember the values are set as of the property status on the assessment date and cannot be increased or decreased for the year the split or merger is processed. Abstract codes are assigned based on the use of the property on the assessment date. The account should be flagged for review the following January.
    i. If a split or merger occurs before the notice of valuation deadline, the current land and improvement values should be verified with the Appraisal Team.
    **NOTE**: This check is suggested because the current actual value as of the assessment date may not be listed on the assessment roll at the time of processing.
    ii. If a split or merger occurs after the notice of valuation deadline, the current actual value as of the assessment date is apportioned to the parcels.
    iii. This apportionment can be based on acreage, buildable units, or site. The method used should be verified with the Appraisal Team.
    iv. If there are improvements on the parcel, use aerial photos or appraiser notes to determine the location of the improvement.
c. Prepare documents for computer input.

11. Enter the grantee, reception number, and sales information on the ownership records (appraisal records, computer, etc.).

    Priority of deed dates:
    a. Date of delivery; date title passes to the grantee (shown in the signature area of the deed).
    b. Acknowledgment date; date deed signed by grantor and acknowledged by a notary public.
    c. Date made; date deed was prepared.
    d. Recording date; date deed was recorded by the clerk and recorder.

    If the TD-1000 is not filed with the deed, the above list should be used to identify the date the property was transferred. If the TD-1000 is available, it should be reviewed in conjunction with the deed. If the date of closing shown on the TD-1000 is significantly different than the date of delivery or the acknowledgment date shown on the deed, the date of closing should be verified. This review can be performed at the time the transfer is processed or in the sales confirmation process.

    Review the information included on the returned TD-1000 or follow-up confirmation letters. If more information is needed, contact the grantee.

12. When real property is conveyed, any interest the grantor may have in an adjoining vacated street, alley, or other right of way is also conveyed, unless expressly excluded in the deed, § 38-30-113 (1), C.R.S.

13. There are instances where a privately owned building is erected or moved onto exempt land. Examples are airplane hangars at a public airport and cabins on land owned by the U. S. Forest Service. In these cases, the building is classified as real property, based on the physical and permanent attachment of the building to the land. The building is conveyed by deed, as the building is real property. A bill of sale does not effectively transfer the ownership of real property. Personal property; however, is transferred with a bill of sale. It is possible in real estate law to have a “split fee” in

which the ownership of land is separate from ownership of the improvements on the land. In these instances there may be a taxable possessory interest in the land through a ground lease.

## SENIOR CITIZEN EXEMPTION

The Colorado Constitution and Colorado statutes establish a property tax exemption for two groups of people: a) qualifying senior citizens, and b) the surviving spouses of senior citizens who previously qualified, § 3.5, art. X, COLO. CONST., and § 39-3-203, C.R.S.

The requirements for obtaining exemption, and the application forms, are discussed in **Chapter 12, Special Topics**. The forms and a brochure are also discussed in **Chapter 9, Form Standards**. This section discusses the administration of the exemption and provides scenarios of properties that would qualify or not qualify for exemption.

In 2003, the General Assembly temporarily suspended state funding of the homestead exemption program. Funding is scheduled to return beginning with assessment year 2006, payable in 2007. During periods when funding is suspended, counties must continue to process exemption applications and administer the exemption program.

### PROCEDURES

No later than May 1 each year, the assessor must send a notification to all residential property owners explaining the existence of the exemption. The notice can be included with the treasurer's tax bill in January, with the assessor's Real Property Notice of Valuation, or it can be sent as a separate mailing, § 39-3-204, C.R.S. Language for the notice is discussed in **Chapter 9, Form Standards**.

Taxpayers must file a completed application with the assessor no later than July 15 of the year for which they are first seeking exemption. The application is considered timely filed if postmarked by July 15, § 39-3-205(1), C.R.S. This is a confidential document. Late applications can be accepted until September 15 if the applicant can show good cause for missing the July 15 deadline. See **Late Applications** below.

The assessor approves or denies all applications for exemption. The legal requirements for exemption are discussed in **Chapter 12, Special Topics**. Example scenarios are provided later in this section. It is recommended that the assessor begin the review process as soon as possible so that applicants who file incomplete applications, or who need to submit additional documentation, have sufficient time to provide what is needed.

No later than August 15, the assessor mails a letter explaining the reason(s) for denial to each applicant who does not qualify or who filed an incomplete application. The letter must describe the procedure for appealing the denial, § 39-3-206(1)(b), C.R.S.

Prior to September 1, the clerk and recorder publishes notice in at least one issue of a county newspaper of the dates the county board of equalization will hear appeals of denied exemptions, § 39-8-104(2)(b), C.R.S.

No later than September 15, a taxpayer may contest the assessor's denial by requesting a hearing before the county board of equalization, § 39-3-206(2)(a), C.R.S.

From September 1 through October 1, the county board of equalization hears appeals from applicants denied exemption, § 39-3-206(2), C.R.S. The assessor should be present to explain the reasoning for the decisions.

No later than October 10, the assessor submits a report to the Administrator that includes a list of the properties granted exemption, § 39-3-207(1), C.R.S. Data required for the report is discussed later in this section.

The Administrator reviews the reports of all assessors to identify applicants who submitted an exemption application on more than one property. No later than November 1, the Administrator notifies applicants who claimed more than one exemption that they are entitled to no exemption for that year. The denial notice includes instructions for appealing the denial to the Administrator, § 39-3-207(2)(a)(I), C.R.S.

Taxpayers denied exemption can appeal to the Administrator no later than November 15. When appealed, the Administrator requests from the appropriate assessors, a copy of each exemption application submitted by the applicant. The appeal is decided accordingly. If the applications remain denied, the Administrator mails a denial letter and a copy of each application filed by the applicant.

No later than December 1, the Administrator sends written notice to each affected assessor of the properties denied by the Administrator, § 39-3-207(2)(b), C.R.S. The assessor removes the exemptions prior to the printing of the tax roll.

It is recommended that the treasurer's tax bills include both the amount of taxes owed and the amount of taxes exempted.

No later than April 1 of the following year, the treasurer submits a report to the State Treasurer of the properties granted exemption and the amount of revenue lost as a result of exemption, § 39-3-207(3), C.R.S. The data required in the report is listed below.

No later than April 15, the State Treasurer issues a warrant to each county treasurer in an amount to fully reimburse local governments for lost revenue, § 39-3-207(4)(a), C.R.S.

If a change in the ownership or occupancy occurs to a property granted exemption, the applicant or trustee must notify the assessor within 60 days of the occurrence of the change, § 39-3-205(3)(b), C.R.S.

Completed exemption applications shall be kept confidential, and lists of individuals who applied for the exemption shall not be provided to the public, § 39-3-205(4)(a), C.R.S. Exemption applications shall be destroyed according to a policy established in conformance with § 6-1-713, C.R.S. Retention and destruction of senior exemption applications is discussed in **Addendum 1-E, Records Retention Guidelines and Schedule**.

## REVOCATIONS

When the assessor determines that a property no longer qualifies for exemption, the exemption is revoked effective the following January 1, § 39-3-203(2), C.R.S. A revocation results from a change in ownership or occupancy or from the death of the applicant (or sometimes the applicant's spouse). The Division recommends that a revocation notice be sent to the owner of record soon after January 1.

When a change in status occurs, the exemption can sometimes be maintained if additional information is provided on a new application. For instance, upon the applicant's death, the spouse might qualify as either a surviving spouse or a qualifying senior. Or, if ownership transferred to the applicant's spouse, or to a company, corporation, or trust, the applicant or spouse might qualify if certain conditions are met. Or, if the applicant no longer occupies the property, the spouse might qualify, or the applicant might continue to qualify while living in a nursing home or assisted living facility. See **Chapter 12, Special Topics** for a more detailed discussion of qualifications.

Statute does not outline a procedure for appealing revocations. Therefore, the Division recommends that the revocation notice include the following items:

- A statement explaining why the exemption was revoked
- A long application form
- A statement explaining that a revoked exemption may qualify for reinstatement upon submission of a new application. The statement should refer the reader to the qualifications stated in the Long Form instructions.
- A statement explaining that in order to continue the exemption in the current year, or to appeal a revocation/denial, the new application must be received no later than July 15.

When appropriate, the applicant or trustee of a property for which an exemption is approved or is pending, must notify the assessor within 60 days of the occurrence of a change in ownership or occupancy that would result in the loss of exemption, § 39-3-205(3)(b), C.R.S.

## ASSESSOR AND TREASURER REPORTS

For each property currently granted the exemption, the assessor's report to the Administrator and the treasurer's report to the State Treasurer must contain the data fields described in §§ 39-3-207(1) and (3), C.R.S. This includes properties for which the exemption was originally granted in a prior year. The reports are submitted annually, even though funding has been suspended until assessment year 2006 (payable 2007). The required data items, and the report file formats are discussed below.

### Assessor's Report to Division of Property Taxation

The assessor's October 10 report to the Administrator must contain the following information, § 39-3-207(1), C.R.S.

- The countywide total actual value of residential property exempted from the tax roll
- The legal description of each property receiving exemption
- The schedule or parcel number of each property receiving exemption
- The name and social security number of the applicant for each property receiving exemption
- The name and social security number of each person occupying each property receiving exemption (this includes children)

- A statement of the taxable and tax-exempt actual value of each property
- Applications submitted on or before September 15, and accepted under § 39-3-206(2)(a.5), C.R.S., must be included in this report.

## Treasurer's Report to State Treasurer

The treasurer's April 1 report to the State Treasurer must contain the following information, § 39-3-207(3), C.R.S.

- The countywide total actual value of residential property exempted from the tax roll
- The total amount of property tax revenue lost by all governmental entities in the county as a result of the exemption
- The legal description of each property receiving exemption
- The schedule or parcel number of each property receiving exemption
- The name and social security number of the applicant for each property receiving exemption
- The name and social security number of each person occupying each property receiving exemption (this includes children)
- A statement of the taxable and tax-exempt actual value of each property

The county treasurer submits a cover letter with the April 1 report that details the number of schedules granted exemption, the total actual value exempted, and total taxes exempted.

## File Format for Reports

The Homestead Exemption data interchange is composed of three fixed-record-length files, County_Total, Property and Occupant. The County_Total file contains one record per county with the total exempt actual value and the total taxes exempted. The Property file contains the data related to each parcel or schedule number for which an exemption has been requested. The Occupant file contains the corresponding occupants for each Property. In other words, there must be at least one, and there may be several, Occupant records for each Property record. There is, therefore, a one-to-many relationship between these latter two files. The County_Name and Property_Number fields relate records in the two files.

During the application review process, it may be necessary to pay close attention to certain fields of data within the assessor 's database to ensure that information can later be correctly displayed on the reports. For instance, the "Legal_Description" field in the Property file is 80 characters long, but many offices store the legal description on multiple lines that are shorter. In such instances, the office can populate the field either by concatenating multiple lines, or by including only the first line. However, if only the first line of the legal is used, it is necessary to ensure that the first line is meaningful on its own. This should be done during the application process, and records for which the first line of the legal is not sufficient, should be identified so that the legal descriptions can later be manually typed into the report.

The **County_Total** file layout (44-byte records) is as follows:

| Field Name | Size | Start Pos. | Type | Notes | Example |
|---|---|---|---|---|---|
| County_Name | 20 | 1 | A | Uppercase, left-justified and blank-padded on right. | CLEAR CREEK |
| Total_Exempt_Actual_Value* | 12 | 21 | N | Total of the Exempt_Actual_Value field for all records in the Property file *for the entire county*. Whole dollars, no commas, decimals or dollar signs. Right-justified. Blank- or zero-padded on the left, at the county's discretion. | 000000099876 |
| Total_Taxes_Exempted | 12 | 33 | N | Total of the Taxes_Exempted field for all records in the Property file *for the entire county*. Dollars and cents, no commas or dollar signs. At the county's discretion, it may be blank for the October submission to Division of Property Taxation, but it *must* be submitted to the State Treasurer. Right-justified. Blank- or zero-padded on the left, at the county's discretion. No implied decimals; please show the decimal point explicitly. | 000000768.10 |

The **Property** file layout (588-byte records) is as follows:

| Field Name | Size | Start Pos. | Type | Notes | Example |
|---|---|---|---|---|---|
| County_Name | 20 | 1 | A | Uppercase, left-justified and blank-padded on right. | CLEAR CREEK |
| Property_Number | 20 | 21 | A | This may be a parcel number, schedule number or a tax file number. Uppercase, left-justified and blank-padded on right. The combination of County_Name & Property_Number *must* match one or more of the **Occupant** records. | 9876-54-3-001 |
| Legal_Description | 80 | 41 | A | Left-justified. Truncate or pad with blanks on right as necessary. Counties may concatenate one or more smaller fields to total 80 characters. | Lot 6, Block 8 |
| Taxable_Actual_Value* | 12 | 121 | N | The taxable portion of the total actual value of the property in whole dollars, no commas, decimals or dollar signs. Right-justified. Blank- or zero-padded on the left, at the county's discretion. | 000000123456 |
| Exempt_Actual_Value* | 12 | 133 | N | Exempt portion of the total actual value (50% of the first $200,000 of total actual value, maximum $100,000 exemption.) Whole dollars, no commas, decimals or dollar signs. Right-justified. Blank- or zero-padded on the left, at the county's discretion. | 000000099876 |

| Field Name | Size | Start Pos. | Type | Notes | Example |
|---|---|---|---|---|---|
| Taxes_Exempted | 12 | 145 | N | Dollars and cents, no commas or dollar signs. This field shall contain the taxes exempted on each property. At the county's discretion, it may be blank for the October submission to Division of Property Taxation, but it *must* be submitted to the State Treasurer. Right-justified. Blank- or zero-padded on the left, at the county's discretion. No implied decimals; please show the decimal point explicitly. | 000000768.10 |
| Applicant_Address1 | 80 | 157 | A | This is the applicant's mailing address, not necessarily the address of the owner of record. Left-justified and blank-padded on the right. | 123 Main Street |
| Applicant_Address2 | 80 | 237 | A | Only present if correspondence is to a family member or other agent. Left-justified and blank-padded on the right. | c/o Bob Smith |
| Applicant_City | 20 | 317 | A | Left-justified and blank-padded on the right. | Green Mtn Falls |
| Applicant_State | 2 | 337 | A | Uppercase. State postal code. | CO |
| Applicant_Zip | 10 | 339 | A/N | Left-justified and blank-padded on the right. | 80123-4567 |
| Associated_Secondary_Properties | 80 | 349 | A | Contains a comma-separated list of secondary parcel/schedule numbers to which part of the exemption applies, if needed. For example, this could occur when an application is submitted for a mobile manufactured home and the land it sits on. Uppercase, left-justified and blank-padded on the right. | 9876-54-3-002, 9876-54-3-003 |
| Notes | 160 | 429 | A | Free-form field for any explanatory notes the assessor wishes to include for the property. | This is a short note. |

* Total Actual Value is the sum of Taxable_Actual_Value and Exempt_Actual_Value for each property.

The **Occupant** file layout (130-byte records) is as follows:

| Field Name | Size | Start Pos. | Type | Notes | Example |
|---|---|---|---|---|---|
| County_Name | 20 | 1 | A | Uppercase, left-justified and blank-padded on right. | CLEAR CREEK |
| Property_Number | 20 | 21 | A | This may be a parcel number, schedule number or a tax file number, for example. Uppercase, left-justified and blank-padded on right. The combination of County_Name & Property_Number *must* match one of the records in the **Property** file. | 9876-54-3-001 |
| Occupant_SSN | 9 | 41 | A | Social Security Number with no delimiters. | 555224444 |
| Occupant_Name | 80 | 50 | A | Uppercase, left-justified and blank-padded on right. | FRED A. FARKLE, JR. |
| Applicant_Flag | 1 | 130 | A | Uppercase. "Y" indicates occupant is the applicant. "N" indicates other occupants. | Y |

## LATE APPLICATIONS

The assessor is authorized to waive the application deadline and accept an application filed on or before September 15, if the applicant can show good cause for not filing by July 15, § 39-3-206(2)(a.5), C.R.S. The assessor has sole discretion in determining whether to accept late applications. The Administrator is required under § 39-3-206(2)(a.5), C.R.S., to develop uniform standards for determining when good cause exists. The standards are listed below.

### Standards for Determining "Good Cause"

An applicant can show good cause for not filing by July 15 if any of the following statements is true:

- The applicant was unaware of or forgot about the July 15 deadline. The applicant does not need to show that his or her failure to file resulted from bad information or a lack of notice by the assessor's office. In general, such claims are impossible to verify by either the applicant or the assessor.

- The applicant claims to have mailed or delivered an application on or before July 15, even though the assessor has no record of receiving it. The applicant does not need to prove that he or she submitted a timely application.

- Good cause includes situations outside of the applicant's control that prohibited or impaired the applicant's ability to file on or before July 15.

When reviewing a late application filed on or before September 15, the assessor should document the reason provided by an applicant for missing the July 15 deadline. Within 20 days of receiving the application, the assessor notifies the taxpayer that the application was either approved or denied. If denied, the notice should state the reason for denial and should also include a statement that the assessor's decision is final and not subject to appeal.

## CHANGES MADE AFTER TAX WARRANT

An error may be discovered after the tax warrant is produced that results in the taxpayer being entitled to a greater exemption amount than what was reported on the tax warrant. The error must be fixed in a manner that accomplishes two goals. The tax amount due must be corrected or a refund issued, and the change must be reflected on the treasurer's April 1 report to the State Treasurer.

Ideally, the goals can be accomplished by correcting the affected property record in the treasurer's system. A revised tax bill can then be printed, and the change can be reflected on the April 1 report. However, not all computer systems are programmed to allow the treasurer to make this type of change, and some treasurers have expressed concern about their authority to do so. The Division believes the corrections should not be made using an abatement as the correction vehicle because changes reflected on the April 1 report do not result in a loss of revenue to local governments. Identifying them as abatements could result in a taxing entity imposing an abatement levy to recover revenue that had not been lost.

We recommend that the assessor and treasurer consult with their county attorney and computer vendor(s) in a discussion to determine the most appropriate methodology for their county. The methodology should include sufficient documentation for explaining to the firm performing the annual audit of county records the reason for each change. The methodology must include the following steps.

### Step One – Division's Multiple-Filer Check

For new exemptions, the assessor must send the Division the information that should have been reported in the property and occupant files of the October 10 report (see above). For changes to existing exemptions, the assessor must send the Division a list of the items that changed. The Division will verify that the applicant is not receiving an exemption on another property and will notify the assessor of the results.

### Step Two - Submit Change to County Treasurer

Upon receiving confirmation that the applicant(s) passed the Division's multiple-filer check, the assessor will: 1) submit a letter informing the treasurer of the situation, 2) provide the treasurer with required property information, and 3) change the assessor's system for the new tax year. The information needed by the treasurer varies depending on whether the change resulted from an exemption that was not reported on the tax warrant or one that had been reported incorrectly. The assessor (granting authority) provides all of the information needed for the property and occupant files of the April 1 report.

### Step Three - Tax Bill Adjustment and Collection

The treasurer notifies the taxpayer of the change and collects the adjusted tax amount or refunds the excess payment. To accomplish this, the treasurer could correct the property records in the treasurer's system and send an amended tax bill. Treasurers who cannot make senior exemption changes should send affected taxpayers a letter explaining the change, and if the county attorney approves, accept a partial tax payment for the amount the senior should have been charged. The remaining revenue is paid when the State Treasurer issues the April 15 warrant to the treasurer.

### Step Four - Reporting to the State Treasurer

Changes made prior to April 1 are reflected in the April 1 report to the State Treasurer. For treasurers who cannot make senior exemption corrections to the tax warrant prior to running the April 1 report, the report can be amended in one of two ways:

1. The property, occupant and total files that make up the April 1 report can be edited after they are produced and prior to submission to the State Treasurer. When changes are made this way, a balancing step is necessary to ensure that the sum of the exempted actual value and exempted tax fields in the property file balances with the county total file.

2. The treasurer can report the senior exemption changes in a supplemental list to the April 1 report. The supplemental list can be electronic or hand-written, and provides the information for each record that would otherwise appear in the property and occupant files. A cover letter explaining the specifics to the State Treasurer accompanies the file.

The county treasurer submits a cover letter with the April 1 report that details the number of schedules granted exemption, the total actual value exempted, and the total taxes exempted. For counties that include a supplemental list, the cover letter contains a detailed summary of the changes not reflected in the property, occupant, and total files. This includes the total actual value and total taxes exempted before and after the changes, and the net change amounts to each.

### Post-April 1 Changes

Counties that discover problems after submitting the April 1 report are asked to contact the Division for direction.

## QUALIFICATION SCENARIOS

Assessors are likely to encounter unusual circumstances not addressed in the qualification provisions found in statute. A few scenarios that may occur are discussed below. Other situations may arise that require assessors to use their best judgment while considering the intent of exemption legislation.

### Manufactured Homes

To fairly apply the ten-year ownership and occupancy requirements to manufactured (mobile) homes, the following facts must be considered: 1) due to their shorter economic lives, manufactured homes are traded for newer models, and 2) owners are sometimes forced by the land owner to move off of the property and relocate to a different park or parcel. When the manufactured home is traded, the owner may claim his place of residence has not changed because he owns and occupies residential property at the same situs. In these situations, movement of the manufactured home is beyond control of the homeowner in a manner similar to the condemnation of a residence by eminent domain. These facts are considered in the following scenarios.

#### *Scenario #1: Manufactured Home Traded In*

A senior citizen owned and occupied a manufactured home on a site in a manufactured home park from 1991 to 2001. In 2001, the senior citizen traded the manufactured home for a new manufactured home that he subsequently occupied on the same lot in the manufactured home park. Does the new manufactured home qualify? Yes.

#### *Scenario #2: New Manufactured Home Moved to Different Lot in Same Park*

A senior citizen traded the old manufactured home for a new one and lived in each for the same timeframes expressed in scenario #1. However, the senior located the new manufactured home on a different lot in the same manufactured home park. Does it qualify? Yes. Generally, the entire manufactured home park is listed as one parcel for property tax purposes. The entire park is considered the same location.

#### *Scenario #3: Owner Forced to Move to Another Park, Trades for New Manufactured Home Later*

A senior citizen is forced to move his or her manufactured home out of a manufactured home park and relocate the home in another park or land. The following year, the owner trades the existing home for a newer model that he locates on the same site. Does it qualify? It qualifies if the senior would have continued to live in the same location had he not been forced to move. This rule adopts the principal established for properties condemned by eminent domain.

#### *Scenario #4: Owner Trades For New Manufactured Home, Later Forced to Move*

A senior trades his existing manufactured home for a new model that he locates in the same park. Later, the senior is forced to move out of the park, and relocates the manufactured home in another park or land. Does it qualify? Yes, for the same reasons expressed in scenario #3.

### *Scenario #5: Forced to Move Out of Park, Trades For New Manufactured Home*

A senior citizen is forced to move his or her manufactured home out of a manufactured home park and relocates to another park or land. The senior citizen uses the opportunity to trade the existing manufactured home for a new one so that the existing home is never occupied at the new location. Does the new manufactured home qualify? Yes. In many cases, particularly with pre-1976 mobile homes, the owner would not be allowed to relocate an older manufactured home to another park. In addition, if a trade was being contemplated when the park owner forced the move, it would likely occur at this time. Therefore, a decision to deny the exemption on this basis would be unfair to this owner when compared to the owners in scenarios #3 and #4.

## Residence on Agricultural Land

A senior meets the ownership and occupancy requirements for a residence located on agricultural land. Do the improvement and the land qualify? The house qualifies but the land does not. The land must receive the residential assessment rate to qualify.

## Adjoining Parcel Receiving Residential Rate

A senior whose single family residence qualifies for the exemption, owns an adjoining lot that is listed by the assessor as a separate parcel, but is used in conjunction with the residence and receives the residential assessment rate. Does it qualify? Maybe. It qualifies if it has been owned by the senior and used in conjunction with the residence for ten years prior to January 1. However, the total exemption for both parcels is limited to 50 percent of the first $200,000 in actual value combined.

## Destroyed Residence

A senior whose property is destroyed by fire or a natural occurrence, builds a new house on the same property. Does it qualify? Yes.

## Apartment Building Owner Moves to Different Unit in Building

A senior who has owned and lived in an apartment building for more than ten years recently moved from one unit in the building to another unit. Does the building qualify? Yes, but only for the portion of the total value that is attributable to the unit currently occupied by the senior.

## Spouse Who is Owner of Record Dies

From 1994 to 2000 a senior citizen occupied a property with his wife as his primary residence. His wife, who was the owner of record, passed away in 2000. The senior continued to occupy the property, and received title through probate in 2002. He still owns the property today, and it remains his primary residence. Does he qualify? Yes. The senior citizen clearly meets the age and occupancy requirements. The question is whether the 10-year ownership requirement was broken by the death of his spouse, due to the fact that when a spouse is the owner of record, the spouse must also occupy the property as his or her primary residence, §§ 39-3-202(2)(a)(II)(A) and (B), C.R.S. The senior meets the ownership requirement because the intent of the provision requiring occupancy by the spouse is to ensure that the spouse does not occupy a different residence. In this case the spouse did not occupy a different residence while she was the owner of record.

## Senior deeds to children – later transferred back to senior

A senior meets the age and occupancy requirements. However, the senior transferred ownership to his or her children for estate planning purposes. Does the senior qualify? Not with the ownership remaining exclusively in the children's names. However, the senior qualifies if the children deed the property back to the senior. The conveyance back to the senior can be limited to a life estate or partial interest in the property. The transfer to the children was similar in spirit to the exceptions granted for transfers to a trust, company or corporation. If the property is conveyed back to the senior, the original conveyance should not be used as grounds for prohibiting the exemption.

# ADDENDUM 3-A, ATTORNEY GENERAL'S OPINION

J.D. MacFarlane
Attorney General
David W. Robbins
Deputy Attorney General
Edward G. Donovan
Solicitor General

The State of Colorado
DEPARTMENT OF LAW
OFFICE OF THE ATTORNEY GENERAL

STATE SERVICES BUILDING
1525 Sherman Street, 3rd. Fl.
Denver, Colorado 80203
Phone 839-3611 & 839-3621



April 7, 1978

Mr. Ray Carper
Property Tax Administrator
623 State Centennial Building
1313 Sherman Street
Denver, Colorado 80203

Dear Mr. Carper:

You have requested an opinion as to whether the imposition of an ad valorem tax on mobile homes owned by, and lived in by, military personnel is precluded by the Soldiers' and Sailors' Civil Relief Act of 1940, specifically 50 USC App. § 574.

This provision prohibits the taxation of personal property, except that used in a trade or business, owned by United States military personnel who are not legal residents of the state, and who are absent from their home states (legal residences) and stationed in another state solely by reason of military orders.

Because of S.B. 214, Chapter 495 Session Laws of 1977, the question arises as to whether mobile homes are real or personal property. S.B. 214 itself contains contradictions, as it indicates that mobile homes are more properly taxed as conventional housing, and they are taxed "as if they were real property" pursuant to C.R.S. 1973, 39-5-202. However, for purposes of tax collection, they are treated as personal property. And in S.B. 39, enacted in 1978, mobile homes are treated as personal property when held by the dealer as inventory.

Whether Colorado defines mobile homes as real or personal property is not necessarily relevant to the application of a federal statute. Jerome v. U.S., 318 U.S. 101, 104, 63 S.Ct. 483, 87 L. Ed 640 (1943). Morgan v. Commissioner of

Internal Revenue, 309 U.S. 78, 81, 60 S.Ct. 424, 84 L. Ed 585 (1940); California v. Buzard, 382 U.S. 386, 393, 86 S. Ct. 478, 15 L.Ed 2d 436 (1966); U.S. v. Chester County Board of Assessment, 281 F. Supp. 1001, 1003 (E.D. Pa. 1968); U.S. v. Shelby County, Tennessee, 385 F.Supp. 1187, 1189 (W.D. Tenn. 1974); U.S. v. Illinois, 387 F. Supp. 638 (E.D. Ill. 1975), affd. 525 F.2d 374 (7th Cir. 1975).

If mobile homes are "motor vehicles," under 50 USC App. § 574(2)(b) they are personal property by definition, and are exempt from the property tax. Under Colorado law, mobile homes are defined specifically in C.R.S. 1973, 42-1-102 (82)(b) as being without motive power. And under the most recent case law, mobile homes are not motor vehicles. Shaw v. Aurora Mobile Homes and Real Estate, Inc., 36 Colo. App. 321 (1975).

The issue of whether a mobile home is a "motor vehicle" for purposes of 50 USC App. § 574 has not been resolved by the Federal courts. In Snapp v. Neal, 382 U.S. 397, 15 L.Ed 2d 445, 86 S.Ct. 485 (1966), the United States Supreme Court acknowledged that they had "no occasion to decide ... (if) the house trailer was a 'motor vehicle' within the meaning of 50 USC App. § 574(2)(b)." The United States Supreme Court has not had occasion since then to address the issue whether house trailers or mobile homes are motor vehicles for purposes of 50 USC App. § 574(2)(b).

Turning to the federal statutes, the definitions of "motor vehicle" generally require that the vehicle be self-propelled or be drawn by mechanical power, and be operated primarily for use on the highways. See e.g. 15 USC 1901(15); 26 USC 4482; 49 USC 303(13); 18 USC 31; 40 USC 472(1); 40 USC 703(1); 23 USC 154. Mobile homes do meet such a definition for they are not operated primarily for use on the highways.

It appears that under both federal law and Colorado law, the definition of motor vehicle does not include a mobile home.

Therefore the issue of whether mobile homes are real or personal property must be addressed more directly.

The determining consideration is whether a mobile home is permanently affixed to the land. This standard has been the one applied by courts deciding whether mobile homes and house trailers are real or personal property. See U.S. v. Chester County Board of Assessment, supra, at 1002; U.S.

v. Shelby County, Tennessee, supra, at 1188-1189; Farmers Union Mutual Insurance Company v. Denniston, 237 Ark. 768, 376 S.W. 2d 252 (1964).

Perhaps the most complete discussion of this question came in U.S. v. Shelby County, Tennessee, supra, wherein the court stated:

> ... the trailers in question have never been permanently affixed to the land but are and have been tied to and connected with one or more utility facilities, and a cable or anchor which is typically "grounded" by an auger end which screws into or is driven into the ground.
> ...
> Furthermore, the general authority and common law dealing with the question recognizes that a more permanent attachment is necessary before a movable article placed on realty is recognized as a part of the real estate. 36A C.J.S. Fixtures § 4; 35 Am. Jur. 2d Fixtures § 6, § 7.
> ...
> Accordingly, mobile homes which are not permanently affixed to realty are determined to be tangible personal property within the meaning of 50 U.S.C. Am. App. § 574 and are therefore exempt from local taxation. (emphasis original)

It is clear that the standard used by the federal court in the Shelby County case is that if a mobile home is permanently affixed to the realty, it is real property, and if it is not permanently attached, it is personal property.

This standard is consistent with Colorado's statutory definitions. C.R.S. 1973, 39-1-102(14) defines real property as land and improvements. C.R.S. 1973, 39-1-102(7) defines "improvements" to include structures or buildings affixed to land. Inherent is the definition of "improvement" is the concept of a structure being permanently affixed to the land.

The crucial element, then, is whether the mobile home is permanently attached to the land. Such a determination must be made on an individual basis.

It is my opinion that when mobile homes are permanently affixed to the land, they are real property, and 50 USC App. § 574 does not apply. However, when mobile homes not permanently attached, they are personal property, and 50 USC App. § 574 does prohibit the imposition of an ad valorem tax, as under S.B. 214.

Sincerely yours,

J. D. MacFARLANE
Attorney General

JDM:SHK:paq

# ADDENDUM 3-B, MANUFACTURED HOME AUTHENTICATION FORM

## AUTHENTICATION/CERTIFICATION – MANUFACTURED HOME TAX

No._____(1)_____

The undersigned certifies that under penalty of perjury, the following information is true and correct to the best of his/her knowledge and that the Manufactured Home described will be moved by expiration date of: (3) ____/____/____

| | | | | | |
|---|---|---|---|---|---|
| Check Appropriate Box(es): ☐Movement ☐Title Change | | | | Parcel/Schedule Number (2) | |
| MOVEMENT | FROM | Park Name or Name of Land Owner (4) | | Legal Description, Space No. or Address (5) | |
| | | City (6) | County (7) | State (8) | Zip (9) |
| | TO | Park Name or Name of Land Owner (10) | | Legal Description, Space No. or Address (11) | |
| | | City (12) | County (13) | State (14) | Zip (15) |

| | | | | |
|---|---|---|---|---|
| Name(s) Manufactured Home Assessed To (16) | | | | |
| Current Address of Owner(s) (17) | | City (18) | State (19) | Zip (20) |
| New Address of Owner(s) (21) | | City (22) | State (23) | Zip (24) |
| V.I.N. Number (25) | Title Number (26) | Year (27) | Make (28) | Size (29) |
| If Sold, Name and Address of Manufactured Home Purchaser (30) | | Current Sales Price and Date (31) | | |
| Check Appropriate Box ☐Owner ☐Agent ☐Mover | Signature (35) | Print Name of Person Signing (33) | | |
| Application Date (32) / / | Anticipated Moving Date (34) / / | Name of Mover (36) | Phone Number of Mover (37) | |

**THIS AUTHENTICATION MUST ACCOMPANY ALL MOVING PERMITS AND TRANSFER OF TITLE.**

**ASSESSOR OF _____(38)_____ COUNTY**

| | |
|---|---|
| Tax Area (39) | ☐Check Here if Intra-County Move (40) |

I hereby certify that the assessed valuation and taxes Due on the above described home are as follows:

$____(42)_____ Full Assessed Valuation for 20__ (41)
divided by 12

= $____(43)_____ One Month's Proration

multiplied by _(44)_ Months to Date = __(45)__ Prorated value

multiplied by ___(46)___ The Current Mill Levy

= $_____(47)_____ Taxes Due Now

| | |
|---|---|
| Date (48) | Assessor or Agent (49) |

**TREASURER OF _____(50)_____ COUNTY**

| | DUE | DUE | DATE |
|---|---|---|---|
| 20___ Taxes (51) | $ (52) | $ (53) | / / (54) |
| Prior Year's Taxes | $ (55) | $ (56) | / / (57) |
| 20___Taxes as Prorated at Lcft (58) | $ (59) | $ (60) | / / (61) |
| Certificate/Permit Fee | $10.00 | $10.00 | / / (62) |
| TOTAL DUE | $ (63) | $ (64) | / / (65) |

I certify that all ad valorem taxes due this county applicable to the above described manufactured home have been paid through the current tax year including any prorated tax due.

| | |
|---|---|
| Time of Day (66) | |
| Treasurer or Deputy (67) | SEAL |

White-Motor Vehicle/Owner
Pink-Assessor County Moving From
Green-Assessor County Moving To
Goldenrod-State Dept. of Transportation
Canary-Treasurer County Moving From

| Item | Description | Completed By |
|---|---|---|
| 1. | Transportable manufactured home permit number (placard number) | Treasurer |
| 2. | Parcel or schedule number | Treasurer or Assessor |
| 3. | Date the manufactured home is moving | Treasurer or Assessor |
| INFORMATION FOR "MOVEMENT FROM" (4-9): | | |
| 4. | Name of the manufactured home park or the landlord's name where the home is moving from | Treasurer or Assessor |
| 5. | Address or legal description, including space number where the home is moving from | Treasurer or Assessor |
| 6-9. | City, county, state, and zip code of where the home is moving from | Treasurer or Assessor |
| INFORMATION FOR "MOVEMENT TO" (10-15): | | |
| 10. | Name of the manufactured home park or the landlord's name where the home is moving to | Treasurer or Assessor |
| 11. | Address or legal description, including space number where the home is moving to | Treasurer or Assessor |
| 12-15. | City, county, state, and zip code of where the home is moving to | Treasurer or Assessor |
| 16. | Name of the manufactured home owner | Treasurer or Assessor |
| 17. | Current street address or post office box of the owners (before the move) | Treasurer or Assessor |
| 18-20. | City, county, state, and zip code of the current owners (before move) | Treasurer or Assessor |
| 21. | Owners new address (after the move) | Treasurer or Assessor |
| 22-24. | City, county, state, and zip code of the current owners (after move) | Treasurer or Assessor |
| 25. | Vehicle identification number (VIN) located on the home or the manufactured home title | Treasurer or Assessor |

| | | |
|---|---|---|
| 26. | Title number located on the manufactured home title | Treasurer or Assessor |
| 27. | Year of construction | Treasurer or Assessor |
| 28. | Manufactured home make | Treasurer or Assessor |
| 29. | Size of the manufactured home | Treasurer or Assessor |
| 30. | If sold, name of manufactured home purchaser | Treasurer or Assessor |
| 31. | Current selling price, if the manufactured home was sold in conjunction with the move and date | Treasurer or Assessor |
| 32. | Application date | Treasurer or Assessor |
| 33. | Print name of person signing | Owner, agent, or mover |
| 34. | Anticipated moving date | Owner, agent, or mover |
| 35. | Signature of the person receiving the authentication | Owner, agent, or mover |
| 36. | Name of mover | Owner, agent, or mover |
| 37. | Phone number of mover | Owner, agent, or mover |
| 38. | Name of the county | Assessor |
| 39. | Tax area where the home is located as of January 1 | Assessor |
| 40. | Check the box if the home is being moved within the county | Assessor |
| 41. | Current assessment year | Assessor |
| 42. | Current full assessed value | Assessor |
| 43. | One month prorated assessed value | Assessor |
| 44. | Number of months the proration is based on | Assessor |
| 45. | Total prorated assessed value | Assessor |
| 46. | Current mill levy | Assessor |
| 47. | Total taxes due | Assessor |
| 48. | Date proration is calculated | Assessor |

| | | |
|---|---|---|
| 49. | Signature of person completing the assessor's section of the form | Assessor |
| 50. | Name of the county | Treasurer |
| 51. | Previous tax year, if back taxes are owed | Treasurer |
| 52. | Amount of tax due for previous year | Treasurer |
| 53. | Amount of tax paid for previous year | Treasurer |
| 54. | Date tax paid for previous year | Treasurer |
| 55. | Amount of tax due for prior year | Treasurer |
| 56. | Amount of tax paid for prior year | Treasurer |
| 57. | Date tax paid for prior year | Treasurer |
| 58. | Current tax year | Treasurer |
| 59. | Amount of tax due for current year | Treasurer |
| 60. | Amount of tax paid for current year | Treasurer |
| 61. | Date tax paid for current year | Treasurer |
| 62. | Date permit fee paid | Treasurer |
| 63. | Total tax due | Treasurer |
| 64. | Total tax paid | Treasurer |
| 65. | Date tax amount(s) is based on | Treasurer |
| 66. | Time of the day the form is signed | Treasurer |
| 67. | Signature of person completing the treasurer's section of the form | Treasurer |

# ADDENDUM 3-C, MOVABLE EQUIPMENT CERTIFICATION FORM

15-DPT-AD
FORM 101 AA(11/89)

**White** - County Assessor's Copy
**Yellow** - Port of Entry Copy
**Pink** - Owner's Copy

## MOVABLE EQUIPMENT CERTIFICATION OF AD VALOREM TAXATION

**A. To Be Completed By Property Owner or Agent**

| Owner's Name | | | | Telephone No. |
|---|---|---|---|---|
| Owner's Address | City | County | State | Zip |

**B. To Be Completed By Property Owner or Agent**

**DESCRIPTION OF MOVABLE EQUIPMENT**

| Year | Make | Model | Description of Equipment *(Include All Attachments. For Drilling Rigs, add drilling depth)* | Drilling Depth *(if applicable)* | Serial or Identification Number | Date of Purchase | Purchase Price |
|---|---|---|---|---|---|---|---|
| | | | | | | | |
| | | | | | | | |
| | | | | | | | |
| | | | | | | | |
| | | | | | | | |
| | | | | | | | |

**C. To Be Completed By Assessor**

**CERTIFICATION OF ASSESSMENT**

Place County Seal Below

Assessor of _____ County

I hereby certify that the above listed items of movable equipment ☐ have been valued ☐ will be valued and assessed for ad valorem taxation in _____ County for the _____ year of assessment, taxes payable in _____.
Schedule No. or Ownership Control No. _____

_____ _____
Signature of Assessor or Deputy Date

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In the case of a forfeiture, the Administrator notifies the owner and the assessor of the loss of exemption due to failure to file an annual report. The assessor notifies the owner that the property has become taxable and allows a period of time for the owner to protest the value. This is accomplished by mailing a Special Notice of Valuation to the owner. The Division recommends the owner be provided a 30-day protest period. Procedures for issuing a Special Notice of Valuation can be found in **Chapter 3, Specific Assessment Procedures**.

## REVOCATIONS

Exemptions may be revoked for the following reasons:

1. Inclusion of false or misleading information in the initial application or the annual report, or any false information provided by owners or users, § 39-2-117(4), C.R.S.

2. Termination of qualified use through:
   a. Vacation of the property by the existing exempt owner and/or qualifying user.
   b. Change in usage of the property by the exempt owner.
   c. Use by another organization which does not qualify under §§ 39-3-106 through 113 and 116, C.R.S.

3. Change in the organization so as to no longer qualify as a religious or charitable organization or as a school, §§ 39-3-106 through 113 and 116, C.R.S.

Revocations require the opportunity for the owner and users, pursuant to § 39-3-116, C.R.S., of the property to be heard at public hearing. If the finding is against the owner, the owner and users will have sixty days to comply in order to retain or regain the exemption, § 39-2-117(5), C.R.S.

In the case of a revocation, the Administrator notifies the owner and the assessor of the loss of exemption. The assessor must mail a Special Notice of Valuation to the owner and allow a period of time for the owner to protest the value. The Division recommends that the owner be provided a 30- day protest period.

Procedures for issuing a Special Notice of Valuation can be found in **Chapter 3, Specific Assessment Procedures.**

Prorations are calculated based on the date specified on the notice issued by the Administrator. Proration procedures can be found in **Chapter 4, Assessment Math**.

## TRANSFER OF TITLE OF AN EXEMPT PROPERTY

Whenever assessor's personnel process a transfer on a property that has been granted an exemption by the Division a copy of the deed should be forwarded to the Division as owners rarely remember to notify the Division when property is sold. Such a property should be appraised and assessed and the new owner notified by Special Notice of Valuation. See ***Loss of Exempt Status Because of Transfer of Property*** in **Chapter 3, Specific Assessment Procedures.**

If it appears that the new owner might also qualify for exemption, the owner should be contacted by the assessor's office with instructions to either contact the Exemptions Section at the Division or to visit the Division's website to get an application form. (http://www.dola.state.co.us/PropertyTax/Exemption.htm.) Exemptions do not run with the land, and each new owner must be granted its own exemption. A good example of this is

when one church sells its property to another, even if the churches appear to be affiliated. The new church must apply for its own exemption. It is important to notify the new owner promptly that an application must be filed. The Administrator may not grant an exemption for tax years earlier than the year prior to the year in which the application was filed. Delay in notifying the owner could result in the denial of the opportunity to apply for exemption for years in which it could be granted. There are no remedies such as abatements available to those who fall outside the noted time frame.

If personal property loses exempt status, the property is not taxable until the following January 1.

## RULES

The Division has extensive rules and regulations governing both property tax exemptions and the procedures used to determine those exemptions. Copies of the rules and regulations are available from the Exemptions Section at the Division of Property Taxation or on the Internet at www.dola.state.co.us/PROPERTYTAX/Exemption.htm.

# TAX DEFERRAL FOR ELDERLY AND MILITARY PERSONNEL

Regardless of income, a senior citizen or any person in military service* on January 1, of the year in which the person files a claim, may defer or postpone the payment of residence or manufactured home property taxes and special assessments, art. 3.5, title 39, C.R.S.

## REQUIREMENTS FOR ELIGIBILITY

To qualify for the deferral, the applicant must be either:

1. An individual, 65 or older as of January 1 of the year claimed, or

2. A "person in military service"* on January 1, of the year in which a person files a claim.

*A person in military service' means a member of the army National Guard of the United States, the Army Reserve, the Naval Reserve, the Marine Corps Reserve, the Air National Guard of the United States, the Air Force Reserve, or the Coast Guard Reserve who has been ordered to active duty pursuant to 10 U.S.C. sec. 12301 (a) or 12302 for a period of more than thirty consecutive days in a time of war or national emergency declared by the congress or the President of the United States. 'Active duty' includes any period during which a person in military service is absent from duty on account of sickness, wounds, leave or other lawful cause, § 39-3.5-101(1.8), C.R.S.

## LIMITATIONS

1. The taxpayer must not be earning income, such as rent, from the property.

2. The taxpayer must own and occupy the residence. Residency elsewhere due to illness will not cause loss of the deferral.

3. All property taxes for prior years must have been paid.

4. The cumulative amount of the deferred taxes plus interest must not exceed the market value of the property less the value of any liens; otherwise title to the property could be lost.

5. Mortgage holder agrees that the state's interest in the property will come before his interest in the property.

6. The property shall not be eligible for the program unless the property meets either of the following requirements:
    a. Owner is 65 years of age or older, and the total value of all liens of mortgages and deeds of trust on the property, excluding any mortgage or deed of trust that the holder has agreed, on a form designated by the state treasurer, to subordinate to the lien of the state for deferred taxes, is less than or equal to 75% of the actual value of the property, as determined by the county assessor; or.

    b. Owner is a person in military service, and the total value of all liens of mortgages and deeds of trust on the property, excluding any mortgage or deed of trust that the owner has agreed, on a form designated by the state treasurer, to subordinate to the lien of the state for deferred taxes, is less than or equal to 90% of the actual value of the property, as determined by the county assessor.

Actual value of the property shall be the most recent appraisal by the county assessor as of the time the claim for deferral is submitted to the county treasurer, § 39-3.5-103(1)(d.5)(B)(II), C.R.S.

## PROCEDURES AND PAYMENT

1. The claimant files an application/lien each year with the county treasurer between January 1 and April 1. The claim form must list the actual value of the property based on the assessor's most recent appraisal.

2. The county treasurer issues a certificate of deferral.

3. Manufactured home owners must submit the title for recording the lien to the state treasurer.

4. The county treasurer records the certificate of deferral and sends the original to the state treasurer. One copy is given to the county assessor and one copy is retained in the county treasurer's office.

5. The state treasurer charges interest beginning May 1 of the calendar year in which the deferral is claimed. Interest accrues at a rate equivalent to the rate per annum on the most recently issued ten-year United States Treasury note rounded to the nearest one-tenth of one percent, as reported by the "Wall Street Journal" as of February 1 of the calendar year in which such deferral is claimed.

6. Any loan for deferred real property taxes, including accrued interest of a taxpayer who was a person in military service, shall not become payable upon the death of the taxpayer if the property is the homestead of the surviving spouse of the taxpayer, and the property meets other statutory requirements.

   The county treasurer and the State Treasurer will deny requests from individuals, corporations, or other private entities to inspect or produce the names, addresses, phone numbers, social security numbers, or other information identifying individuals who participate in the deferral program, § 39-3.5-119(1), C.R.S. This provision does not prohibit individuals from examining documents recorded with the clerk and recorder's office, nor does it prohibit the disclosure of information required: in connection with granting or denying a claim for deferral; required in connection with an administrative, judicial, or other legal proceeding; required in connection with the conveyance, sale, or encumbrance of a specific property; when the information is contained in a statistical compilation or other informational summary that does not disclose individual identifying information; or when the individual claiming the exemption has agreed to the discloser, § 39-3.5-119(2), C.R.S.

### Payment of Deferred Taxes

Deferred taxes must be paid when:

1. The claimant dies.

2. The property is sold or title transfers to another person.

3. The taxpayer moves for reasons other than poor health.

4. The taxpayer rents the property or otherwise receives income from it.

5. The location of the tax-deferred manufactured home has changed within the county or to another county.

6. The mortgage, deferred taxes, and accrued interest have exceeded market value.

All deferred taxes plus interest are due within one year of the death of the owner or in 90 days for other causes listed above. Taxes may be paid at anytime without affecting the deferred status. If property taxes are paid as part of a mortgage payment, a certificate is presented to the mortgagor for refund of the property tax monies held in escrow. The property may be given to the State of Colorado in lieu of payment. If the taxes are not paid, the State of Colorado will foreclose on the property.

Deferred taxes are not payable when:

1. The spouse of the taxpayer has elected to continue the deferral for that year if the spouse is 60 years of age or older and meets all other requirements of §§ 39-3.5-103(1)(b) and (1)(c), C.R.S.

2. The spouse of the taxpayer of a person that was in military service has elected to continue the deferral for that year and meets all other requirements of §§ 39-3.5-103(1)(b) and (1)(c), C.R.S.

The spouse of the taxpayer or the spouse of the person that was in military service does not need to repay the deferred tax until the property is sold, changes into an income producing property, or title is transferred to someone other than the surviving spouse, §§ 39-3.5-110 and 39-3.5-112, C.R.S.

## REQUIRED FORMS

The deferral claim form may be obtained from the local county treasurer. The county treasurer may enclose a deferral form reminder with the tax notice; however, the claimant must apply annually whether the reminder is received or not.

## PROPERTY TAX WORK-OFF PROGRAM

Individual taxing entities such as a county, city and county, city, town, school district or special district administers the property tax work-off program. The program allows taxpayers 60 years of age or older or with a disability to work for minimum wage in lieu of paying all or a portion of the property tax due to the entity, §§ 39-3.7-101 and 102, C.R.S. Person with a disability means any individual with a physical impairment, a developmental disability as defined in § 27-10.5-102(11)(a), C.R.S., or mental retardation that substantially limits one or more of their major life activities, § 39-3.7-101(1.5), C.R.S.

Taxpayers with a disability who apply to participate in a property tax work-off program must include with their application a signed and dated letter from a Colorado licensed health care professional verifying they have a disability. Any taxing entity that establishes a property tax work-off program has the authority to further define the term “person with a disability” for purposes of determining eligibility for the property tax work-off program. The definition may restrict, the class of individuals who are eligible to participate in the property tax work-off program, § 39-3.7-102(6), C.R.S.

Each participating entity must establish procedures for its program and must make information regarding the program available to the taxpayers living within the boundaries of the taxing entity.

**NOTE**: Not all entities may participate in the program.

### REQUIREMENTS FOR ELIGIBILITY

To qualify for the program, a taxpayer must meet all of the following eligibility requirements:

1. Must be 60 years of age or older.

2. The property must be the taxpayer's "homestead." Homestead means the owner-occupied residence of the taxpayer.

3. The property may not be income producing.

## HOMESTEAD EXEMPTION

In addition to the homestead property tax exemption for qualifying senior citizens described earlier in this chapter, Colorado statute also establishes a homestead exemption from execution and attachment arising from any debt, contract, or civil obligation not exceeding $45,000. This exemption, found in §§ 38-41-201 through 212, C.R.S., has no bearing on an assessor's duties or functions.

# PREPAYMENT BY ENERGY AND MINERAL OPERATIONS

The Colorado General Assembly has authorized prepayment of ad valorem taxes by qualified energy and mineral operations. The intent of the prepayment legislation, art. 1.5, title 39, C.R.S., is that large, developing energy and mineral operations should be authorized to prepay ad valorem taxes to local governments for expenditure on capital improvements so that local governments can meet additional public service demands created by such operations. The additional demands for public service are usually created during the development or construction phases of such operations, prior to the generation of additional tax revenue.

## QUALIFICATIONS FOR PREPAYMENT

To be authorized to prepay ad valorem taxes to local government entities:

1. The venture must be an energy or mineral operation.

   "Operation" is the development, construction, and operation of any facility for either or both the:
   a. Production of energy, i.e., a power plant;
   b. Extraction, processing, conversion, or refining of minerals, including but not limited to a mine; oil and gas production, whether conventional or from oil shale; a mill, retort, refinery, smelter; or, related facility or combination thereof.

2. The operation must be under the same ownership.

3. The estimated assessed valuation of the operation must exceed $50,000,000 when it begins functioning.

4. The taxable property of the operation must be located within the boundaries of the local government entity which will receive the prepayments.

## VOLUNTARY PREPAYMENT

An owner of an operation may elect to prepay moneys to one or more local government entities for credit against general property taxes, which will be levied in the future.

The owner is not obligated by law to agree to a prepayment arrangement. The owner may agree to prepayments to one or more taxing jurisdictions, but such agreement does not require prepayments to all the taxing jurisdictions in the tax area.

A prepayment to one or more local government entities does not affect the operation's obligations to pay general property taxes to the other taxing entities in the area which do not receive such prepayment.

Prepayment moneys can be expended by the local government only on capital improvements which are directly or indirectly related to the additional public service demands created by the operation.

"Capital improvement" means any road or highway; school facility or equipment; domestic, commercial, or industrial water facility; sewage facility; police and fire protection facility or equipment; hospital facility or equipment, or any other local government administrative or judicial facility which a local government is authorized by law to acquire or construct, § 39-1.5-102(1), C.R.S.

## PREPAYMENT AGREEMENT AND LIMITATIONS

The owners of the operation and the governing board of the local government entity, which will receive the prepayments, must jointly determine and agree upon:

1. Total amount of prepayments to be made: The total amount of the prepayments cannot exceed 25% of the estimated tax liability to the local government over a 20-year period, beginning in the year in which the assessed value of the operation is estimated to exceed $50,000,000.

   *Example:*

   Assume that the county is to receive the prepayments; that the total county mill levy is expected to be approximately 20 mills for the next 20 years; and that the assessed valuation of the operation should average $50,000,000 for the 20-year period.

   In this oversimplification, the operation's projected tax liability to the county would be $1,000,000 per year, and the total projected tax liability for the next 20 year period would be $20,000,000 as shown below:

$50,000,000 Value x .020 = $1,000,000 Taxes per year

$1,000,000 Per year x 20 Years = $20,000,000 Total taxes

The total amount of the prepayments in this case cannot exceed 25% of $20,000,000, which is $5,000,000.

2. When the prepayments are to be made: Prepayments may be made by the operation prior or subsequent to the year in which it begins functioning or when its assessed valuation exceeds $50,000,000. There may be only one prepayment, or there may be several prepayments, which extend over a period of time.

3. The amounts of annual credits for prepayment to be allowed: There are two limitations, which affect the credit against property taxes, that can be allowed to the operation in any year.
    a. An annual prepayment credit shall not be allowed prior to the taxable year in which the operation begins functioning or the assessed valuation of the operation exceeds $50,000,000, whichever is earlier.
    b. An annual prepayment credit shall not exceed 25% of the taxes due from the operation to the local government entity for the then current tax year.

## EXAMPLE OF PREPAYMENT, CREDIT AMOUNTS AND INTERVALS

The following is a hypothetical example. We will presume that this example is in compliance with all provisions required by TABOR.

A new mining operation, which is expected to employ 1,500 workers, is being developed in the county. Most of the new workers and their families will be living in unincorporated areas. About 500 workers are already employed on the development and construction phases of the new operation. This influx has caused many social problems, including a severe strain on the sheriff's department and the old county jail.

The board of county commissioners feels it must immediately reinforce the sheriff's department with additional personnel and equipment and must build a new, larger jail. However, the current assessed valuation of the county is too low to permit these additional expenditures from property tax revenue. The mining operation has indicated it would be willing to prepay a portion of its future property taxes to help the county build the new jail and other badly needed facilities. Meetings of the county officials with officials of the mining operation are held to explore this proposal. As a result, the following prepayment and credit items are agreed upon:

1. The total assessed valuation of the mining operation within the county boundaries should exceed $50,000,000 in 2007, which is also the year production commences.

2. The total assessed valuation of the operation is expected to exceed $50,000,000 for the following 20 years, assuming there will be no radical changes in demand for the product, in the general economy, or in property taxation laws.

3. The county mill levy is almost 20 mills and increases are subject to the requirements in section 20, article X of the Colorado Constitution. Based on $50,000,000 assessed valuation, the operation's property tax liability to the county in 2006 would be $1,000,000 ($50,000,000 valuation x .020 levy = $1,000,000). If the county levy

remains at approximately 20 mills, the projected tax liability of the operation for the following 20 years would be $20,000,000 ($1,000,000 x 20 years = $20,000,000).

4. The operation will prepay a total of $2,000,000 property taxes to the county. $1,000,000 will be paid in each of the years 2006 and 2007. These prepayments will be in addition to any current property taxes due in each of these two years.

   The maximum total amount of prepayments the operation could have agreed to would have been $5,000,000. This figure represents the 25% limitation of the operation's projected tax liability to the county over a 20-year period ($20,000,000 total tax liability over 20 years x .25 = $5,000,000.).

5. The $2,000,000 total prepayment will be credited against the operation's annual property tax liability at the rate of $250,000 per year for 8 years, beginning in 2008. The maximum allowable annual prepayment credit is 25% of the property taxes due to the county each property tax year. In this case, the annual tax liability to the county has been projected at $1,000,000 for 2007. Therefore, the annual credit cannot exceed $250,000 for that year ($1,000,000 tax liability x maximum .25 = $250,000).

6. The projected prepayment and credit schedule agreed upon is listed below. It is based on the assumption that the operation's tax liability to the county will be $1,000,000 in 2008 and will rise 5% per year due to valuation increases.

| Year | Property Tax Prepayment Amount | Property Taxes Due | Total Prepayment Credit | Minus Net Property Taxes Due |
|---|---|---|---|---|
| 2006 | $1,000,000 | $ 450,000 | | $ 450,000 |
| 2007 | 1,000,000 | 700,000 | | 700,000 |
| 2008 | | 1,000,000 | 250,000 | 750,000 |
| 2009 | | 1,050,000 | 250,000 | 800,000 |
| 2010 | | 1,102,500 | 250,000 | 852,500 |
| 2011 | | 1,157,625 | 250,000 | 907,625 |
| 2012 | | 1,215,506 | 250,000 | 965,506 |
| 2013 | | 1,276,282 | 250,000 | 1,026,282 |
| 2014 | | 1,340,096 | 250,000 | 1,090,096 |
| 2015 | | 1,407,100 | 250,000 | 1,157,100 |
| Totals | $2,000,000 | | $2,000,000 | |

## ESTIMATING PROJECTED VALUATION AND TAX LIABILITY

Prior to the adoption of a formal agreement and resolution or ordinance pertaining to the total amount of prepayments and the amounts and intervals of the prepayments and the prepayment credits, a joint estimate shall be made by:

1. The owner of the operation,

2. The governing body of the local government which will receive the prepayments,

3. The county assessor,

4. The county treasurer, and

5. The Division of Property Taxation.

The joint estimate shall include a determination of:

1. The taxable year in which the assessed valuation of the operation will exceed $50,000,000.

2. The total assessed valuation of the operation for the subsequent 20 years, and

3. The projected property tax liability of the operation for the prepayment credit period, which cannot exceed 20 years.

By necessity, the estimate must be based primarily on the operation's projected expenditures on land, improvements, and equipment, and its projected income from extraction of minerals or production of energy.

The assessor is an interested party to the estimate because the assessor will be listing and valuing the taxable property of all or part of the operation in accordance with the property tax provisions of the State Constitution and statutes.

The Division of Property Taxation is also logically included in the estimating process. Part or all of an operation could be state assessed by the Division, as in the case of a power-generating plant.

If the operation should be locally assessed, the Division may become involved in valuation assistance or supervision. In addition, the Property Tax Administrator will be involved in the abatement process, which will be necessitated later by the prepayment credits.

The governing body of the local government, which will receive the prepayment moneys, is obviously an interested party to the estimate. It must know the anticipated amounts and intervals of the prepayments so that it can make proper budget and expenditure plans. It must also have a reasonable approximation of the future tax liability of the operation and know how much that liability will be offset by the prepayment credits.

The county treasurer is an interested party because the treasurer will be administering and accounting for the prepayment credits.

## PREPAYMENT CREDIT TREATED AS AN ABATEMENT

Credit allowed for prepayments does not affect the valuation of the property. The proper assessed valuation of the operation is to be determined each year as provided by law regardless of any tax prepayments or credit for prepayments.

The prepayment credit is to be shown on the tax statement for each taxable year that it applies to a local government, fund, or fund account. The general format for showing the credit would be:

| | |
|---|---|
| Total property taxes due taxing entity | $xxxxxx.xx |
| Less tax prepayment credit allowed | - xxxx.xx |
| Net property taxes due | $ xxxxx.xx |

The credit allowed in any taxable year for prepayments made to a local government shall be treated as an abatement of the property taxes due that local government for that year from the operation. Unlike other abatements which affect the revenue of each taxing district within the specific tax area, a prepayment credit abatement will affect only the local government which received the prepayments.

This abatement provision does not affect the assessment roll while it is still in the possession of the assessor. The total assessed valuation of the operation shall be listed in the roll, along with the several levies applicable to the valuation and the total amount of such taxes levied against the valuation.

As an alternative to the completion and approval of an abatement petition each year an annual prepayment credit is allowed. The following one-time procedure may be implemented if all the involved parties agree.

The governing body of the local government, which is to receive tax prepayments, must adopt a resolution or ordinance which contains all the provisions relating to such prepayments and credits. The resolution could also contain statements to the effect that:

1. The governing board acknowledges that each annual prepayment credit allowed is to be treated as an abatement of the property taxes due to the local government for the year the credit is allowed.

2. The Property Tax Administrator has participated in the estimates to the operation's future valuation and property tax liabilities and has knowledge of the anticipated amounts and intervals of prepayment credits.

3. The Property Tax Administrator acknowledges that each annual prepayment credit shall be treated as an abatement, and that the resolution shall serve as an application for all such future prepayment credit abatements.

4. The Property Tax Administrator finds that the abatement application is in proper form, is in conformity with the law, and is approved.

5. The governing body, the county commissioners, and the Property Tax Administrator find and agree that the resolution and application shall serve as authorization to the county treasurer to abate each annual amount of tax prepayment credit allowed in that taxable year.

The resolution, or the abatement statements within it, would be signed by the governing body, the county commissioners, and the Property Tax Administrator. Such a resolution then serves as the approved abatement for the tax prepayment credits as they are allowed. All the legal steps of an abatement have been fulfilled in the resolution.

## RESOLUTION TO BE ADOPTED BY LOCAL GOVERNMENT

The tax prepayment law requires that the governing body of the local government, which receives property tax prepayments, shall adopt a resolution or ordinance that must contain:

1. A description of the capital improvement or improvements for which the tax prepayment moneys will be spent.

2. A listing of the total amount of taxes to be prepaid with the anticipated amounts and intervals of the prepayments.

3. If the one-time abatement procedure is to be used, a provision stating that prepayment credits shall be treated as an abatement of taxes and that all necessary parties have agreed the resolution shall serve as the approved abatement. If an abatement petition is to be submitted to the Property Tax Administrator for the applicable credit, this provision is not required.

## PREPAYMENT/CREDITS DO NOT AFFECT LEVY LIMITATION

Two provisions apply concerning tax prepayments and credits when determining the amount of revenue the local government is allowed to levy under § 29-1-301, C.R.S.:

1. Tax prepayments are not to be considered property tax revenue to the local government in the year in which they are paid.

2. The amount of tax liability against which a credit for prepayment is to be allowed is considered to be property tax revenue in the year in which the credit is allowed. However, it is considered to be tax revenue attributable to increased valuation for new construction or bond revenue, both of which are excluded when determining the statutory revenue limit.

Because of these two provisions, the assessor's certification of value to the local government which received prepayments is not affected by either prepayments or credits for prepayments. Certification of the total valuation for assessment is made in the same manner as for any other taxing district. Prepayments and credits for prepayments are ignored by the assessor when preparing certification of value.

The county treasurer collects the tax and, therefore, is the official responsible for administering each allowable annual tax prepayment credit. Before allowing an annual credit, the treasurer must ascertain that the amount allowed does not exceed 25% of the taxes due from the operation to the local government for the current year, § 39-1.5-104(1)(a), C.R.S.

The treasurer will then set up special procedures for allowing the credit and showing the amount of the credit on the operation's tax statement, § 39-1.5-104(4), C.R.S.

# VOLUME 2 INDEX

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**B**



**C**

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**E**



**F**



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**Q**



**R**



**S**

**T**

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**V**



**W**